

CHAPTER 10

PUBLIC NUISANCES

SECTION 1 - GENERAL PROVISIONS

No person shall cause, allow, continue, maintain, or permit any person to create or permit to exist any public nuisance or public nuisance area within the Town of Auburn. This shall apply also to any premises owned, leased, or controlled by that person in the Town of Auburn.

SECTION 2 - DEFINITIONS

In this ordinance:

- A. **Public Nuisance.** A public nuisance is anything, act, occupation, condition, or use of property that shall continue for such length of time as to:
1. Substantially annoy, injure, or endanger the public comfort, health or safety;
 2. Render the soil, water, air or any article of food or drink impure, noxious, unwholesome, or unhealthy;
 3. Greatly offend the public morals or decency;
 4. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage, any street, alley, highway, navigable body of water or other public way or the use of public property;
 5. In any way render the public insecure in life or in the use of the property.

SECTION 3 - PUBLIC NUISANCES AFFECTING HEALTH

The following are hereby specifically declared to be public health nuisances but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 2 of this ordinance:

1. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing materials, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

2. All abandoned wells not securely covered or secured from public use.
3. A rat harborage area where rats or other vermin can live and breed.
4. A waste accumulation area where waste amounts in excess of two (2) cubic yards of waste are allowed to accumulate without a proper waste management permit.
5. An unburied animal carcass area where a dead animal or dead animals are not buried in a sanitary manner within forty-eight (48) hours of death.
6. A stagnant water area where mosquitoes, flies and other insects are allowed to harborage.
7. A noxious odor area where emissions of any noxious odors, foul odors, offensive odors, nauseous odors, gases or any stench repulsive to the sense of ordinary persons are allowed to continue to the substantial annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town of Auburn beyond normal smells expected in an agricultural area.
8. A surface water pollution area where pollution from the premises entering the surface water has caused a private or public drinking water well on another property or any river, stream, lake, ditch, canal or other body of water to become contaminated.
9. An air pollution area where emission of smoke, soot, fumes, gases, ash, dust or other pollutants into the atmosphere repulsive to the senses of ordinary persons are allowed to continue to the substantial annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town of Auburn.
10. An unwholesome food area where unwholesome, contaminated, or polluted food or drink is sold or served on the premises to persons in the Town of Auburn.
11. A dangerous building area where the building, structure, place or the electrical, heat or water supply is in a condition and location to cause a menace or danger to the public health of persons in the Town of Auburn.
12. An improper sewage area where the effluent from the sewer, septic tank, holding tank, or cesspool on the premises is in a condition and location to cause a menace or danger to public health of persons in the Town of Auburn.
13. A hazardous waste area where the discharge, disposal, storage or treatment of hazardous, nuclear or toxic waste are allowed to accumulate to the substantial

annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town of Auburn.

14. A noxious material discharge area where the discharge, disposal, storage or treatment of noxious, filthy, decaying or nauseous materials repulsive to the senses of ordinary persons are allowed to continue to the substantial annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town of Auburn.

SECTION 4 - PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of Section 2 of this ordinance.

1. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
2. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town of Auburn.
3. Repeated or continuous violations of the ordinances of the Town of Auburn.
4. An abandoned or wrecked motor vehicle area where motor vehicles, tractors, house trailers, railroad cars and other motorized vehicles are allowed to accumulate without a proper junkyard permit issued by the Town of Auburn.
5. A loud noise area where loud, discordant and unnecessary sounds of motor vehicles, animals or music repulsive to the senses of ordinary persons are allowed to continue to the substantial annoyance or substantial discomfort of persons or injury to persons or property in the Town of Auburn.
6. An obstruction area where structures, hedges, trees, weeds, signs, billboards, buildings or equipment are installed or maintained near a public highway, road, street, alley or railroad crossing and due to the condition and location block a clean view of traffic that causes a menace or danger to public safety of persons in the Town of Auburn.
7. Allowing trash, debris, old lumber, furniture, freezers, stoves, refrigerators, junk motor vehicles, or waste to accumulate in unsheltered areas on the premises for more than thirty (30) consecutive days in any calendar year.

8. Allowing unauthorized disposal, storage, treatment or recycling of waste on the premises without the appropriate approvals from the State of Wisconsin, the Town of Auburn, or the County of Chippewa.
9. Allowing domestic animals (dangerous or otherwise) to run at large on the premises wherein they can access property of another to the substantial annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town of Auburn.
10. Compression Brakes Prohibited.
 - A. Prohibition. It shall be unlawful for any vehicle equipped with compression brakes (Jake brakes) to utilize the vehicle's engine to slow in order to meet proper speed restrictions within the Town.
 - B. Exception. It shall be an affirmative defense to prosecution under this subsection that said compression brakes were necessary for the protection of persons and/or property. Emergency vehicles shall be exempt from this ordinance.

SECTION 5: ACCUMULATION OF JUNK FORBIDDEN

1. The following is hereby declared to be a public nuisance wherever it may be found within the Town:
 - A. Any junk stored contrary to sub (C) below.
2. Definition: The following words, phrases, and terms used in this section shall be interpreted as follows:
 - A. **Junk:** Worn out or discarded materials of little or no value including but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, discarded building materials, or any other unsightly debris, the accumulation of which has an adverse effect upon the neighborhood or Town property values, health, safety, or general welfare.
 - B. **Storage of Junk Prohibited:** No person, except a junk dealer, licensed by the Town Board, shall accumulate, store, or allow any junk outside of any building on any public or private real estate located within the Town of Auburn corporate limits.

- C. Issuance of Citation/Action to Abate: Whenever the Town Board shall find any such junk as defined in sub (1) above, accumulated, stored, or remaining in the open upon any property within the Town limits contrary to the provisions hereof, the Town Board shall notify the owner of said property on which such junk is located of the violation of this section. If such junk is not removed within ten (10) days, the Town shall cause a citation to be issued to the property owner or occupant of the property upon which such junk is located. In addition, action to abate such nuisance may be commenced, as provided by the above said standards.

SECTION 6 - ABATEMENT OF PUBLIC NUISANCES

1. Enforcement. It shall be the duty of the Town Chairman, Town Board, and Town Code Enforcement Officer to enforce the provisions of this ordinance, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer(s) shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has or have satisfied himself that a nuisance does in fact exist.
2. Enforcement-Agricultural Uses and Practices. In actions against agricultural uses and agricultural practices, as defined in Section 823.08 and 91.01(C) Wis. Stats., the Town shall observe the limitations set forth in Section 823.08.
3. Summary Abatement
 - A. Notice to Owner: If the inspecting officer shall determine that a public nuisance exists within the Town of Auburn and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Chairman may direct the Code Enforcement Officer to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within a reasonable time as determined by the Town Board, and shall state that unless such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting, or maintain the nuisance, as the case may be.

- B. **Abatement by Town:** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.
- C. **Abatement by Court Action:** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Town Chairman who, upon direction of the Town Board, shall cause an action to abate such nuisance to be commenced in the name of the Town in Circuit Court of Chippewa County in accordance with the provisions of Chapter 823, (1993-1994) Wisconsin Statutes. In addition or as an alternative, the Town can proceed with citation procedures and impose forfeitures for violation of this ordinance.
- D. **Other Methods Not Excluded:** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Town of Auburn or its officials in accordance with the laws of the State of Wisconsin.

SECTION 7 - COST OF ABATEMENT

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town of Auburn shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

SECTION 8 - PENALTIES

Any person who shall violate any provision of this Chapter shall be subject to a penalty of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) per day plus penalty assessment in addition to any specific penalties provided in this Chapter. A separate offense shall be deemed committed on each day on which a violation of this Chapter occurs or continues. This section shall not preclude the Town from maintaining any appropriate action to prevent or remove a violation of this Chapter.