

**CHAPTER 12**  
**PUBLIC NUISANCE**

**12.01 PUBLIC NUISANCE ORDINANCE**

(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 Village of New Auburn. This shall apply also to any premises owned, leased, or controlled by that person in the Village of New Auburn.

(2) **DEFINITIONS**

(A) **Public Nuisance.** A public nuisance is any thing, 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.

(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 subsection 12.01(2) of this ordinance.

(A) 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.

(B) A noxious weed area where these noxious weeds are allowed to exceed eight (8) inches in height.

**(C)** All abandoned wells not securely covered or secured from public use.

**(D)** A rat harborage area where rats or other vermin can live and breed.

**(E)** 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 issued by the Village Board.

**(F)** 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.

**(G)** A stagnant water area where mosquitoes, flies and other insects are allowed to harborage.

**(H)** 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 Village of New Auburn.

**(I)** 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.

**(J)** 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 Village of New Auburn.

**(K)** An unwholesome food area where unwholesome, contaminated, or polluted food or drink is sold or served on the premises to persons in the Village of New Auburn.

**(L)** 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 Village of New Auburn.

**(M)** 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 Village of New Auburn.

**(N)** 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 Village of New Auburn.

**(O)** 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 Village of New Auburn.

**(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 subsection 12.01(2) of this ordinance.

**(A)** 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.

**(B)** All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village of New Auburn.

**(C)** Repeated or continuous violations of the ordinances of the Village of New Auburn.

**(D)** 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 Village Board.

**(E)** 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 Village of New Auburn.

**(F)** 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 Village of New Auburn.

**(G)** 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.

**(H)** Allowing unauthorized disposal, storage, treatment or recycling of waste on the premises without the appropriate approvals from the State of Wisconsin, the Village of New Auburn, or the County of Chippewa and/or Barron.

(I) 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 Village of New Auburn.

**(J) Compression Brakes Prohibited**

(1) **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 Village.

(2) **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.

**(5) CONTROL OF WEEDS AND GRASSES**

(A) No person owning property in the Village of New Auburn shall permit to grow or pollinate upon his premises weeds or grasses which cause or produce hay fever in human beings, emit unpleasant or obnoxious odors or conceal filthy deposits. In order to prevent such growth and pollination, it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses or weeds exceeding eight inches in height.

(B) It shall be the duty of the Weed Commissioner of the Village of New Auburn to enforce this section and if any person shall have failed to comply herewith, the Weed Commissioner shall, after five days written notice to the owner, cause the premises to be mowed and report the cost thereof in writing to the Village Clerk. Such charge shall be spread out on the tax roll as a special tax to be collected in the same manner as other taxes unless such lands are exempt from taxation.

**(6) ACCUMULATION OF JUNK FORBIDDEN**

(A) The following is hereby declared to be a public nuisance wherever it may be found within the Village:

(1) Any junk stored contrary to sub (C) below.

(B) **Definition:** The following words, phrases, and terms used in this section shall be interpreted as follows:

(1) **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 Village property values, health, safety, or general welfare.

(C) **Storage of Junk Prohibited.** No person, except a junk dealer, licensed by the Village Board, shall accumulate, store, or allow any junk outside of any building on any public or private real estate located within the Village of New Auburn corporate limits.

(D) **Issuance of Citation/Action To Abate.** Whenever the Police Department shall find any such junk as defined in sub (1) above, accumulated, stored, or remaining in the open upon any property within the Village limits contrary to the provision of sub (5) above, the Department 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 Police Department 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.

(7) **ABATEMENT OF PUBLIC NUISANCES**

(A) **Enforcement.** It shall be the duty of the Village President, Village Board, and Village Marshal 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.

(B) **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 Village shall observe the limitations set forth in Section 823.08.

(C) **Summary Abatement**

(1) **Notice to Owner.** If the inspecting officer shall determine that a public nuisance exists within the Village of New Auburn and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President may direct the Village Marshal 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 Village Board, and shall state that unless such nuisance is so abated, the Village 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.

(2) **Abatement by Village.** 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.

**(D) 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 Village President who, upon direction of the Village Board, shall cause an action to abate such nuisance to be commenced in the name of the Village in Circuit Court of Chippewa and/or Barron County in accordance with the provisions of Chapter 823, (1993-1994) Wisconsin Statutes. In addition or as an alternative, the Village can proceed with citation procedures and impose forfeitures for violation of this ordinance.

**(E) Other Methods Not Excluded.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village of New Auburn or its officials in accordance with the laws of the State of Wisconsin.

**(8) 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 Village of New 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.

**(9) PENALTIES.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 1.05 of this Code, except that the forfeiture imposed shall be 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 Village from maintaining any appropriate action to prevent or remove a violation of this Chapter.