

NUISANCE PROVISIONS IN THE SHEBOYGAN MUNICIPAL CODE

<u>Section</u>	<u>Description</u>
Sec. 1-12(c)	All violations of Municipal Code are nuisances and may be abated
Sec. 18-14	Nuisance fowl
Sec. 18-57	Keeping multiple animals without an Animal Fanciers Permit ordinance is a nuisance
Sec. 26-400	Abatement of nuisance fences
Sec. 26-655	Defines unreasonable activity or use of property that interferes substantially with the comfortable enjoyment of the life, health or safety of another or others as a nuisance
Sec. 26-708	Provides process for abatement of nuisances under Housing Maintenance Code.
Sec. 26-1010 & 1011	Defines nuisances caused by rainwater drains and sump pumps
Sec. 26-1066 & 1067	Defines and bans termite nuisances
Sec. 62-216	Regulates mobile homes stored or displayed for sale in a mobile home park
Sec. 66-1 thru 14	General nuisance provisions
Sec. 66-41 thru 44	Weed control
Sec. 66-71 thru 80	Noise nuisances
Sec. 70-41	Gambling as a nuisance
Sec. 102-51	Failure to properly maintain commercial refuse and recyclables is a nuisance
Sec. 118-276	Abandoned vehicles are considered a public nuisance
Sec. 122-3(a)	Nuisance poles
Sec. 122-298, 300	Regulation of discharges into sewers
Sec. 122-337	Regulation of cesspools
Sec. 122-602	Illicit discharges into storm sewers
Sec. 122-604	Improper connections to storm sewers
Sec. 126-26, 65 & 66	Nuisance trees and shrubs
Sec. 126-128	Obstruction of view by trees and shrubs is a nuisance

Gen. Ord. No. - 08 - 09.

By Alderpersons Bohren, Wangemann,
Heidemann, Surek, and Vander Weele
July x, 2008.

AN ORDINANCE repealing and recreating §, Sheboygan Municipal Code, so as to.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. §66-1 of the Municipal Code, entitled "Definitions" is hereby repealed and re-created to read as follows:

"Sec. 66-1. Definitions.

Each of the following is a nuisance punishable under this section:

- (1) Any source of filth, cause of sickness, source of rodent problems or conditions causing a safety hazard;
- (2) Any thing, act, occupation, condition, or use of property that continues for such length of time as to:
 - (a) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
 - (b) In any way render the public insecure in life or in the use of property;
 - (c) Greatly offend the public morals or decency; or
 - (d) 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;
- (3) Any thing, act, occupation, condition, or use of property that has been defined by the Wisconsin Statutes as a public nuisance;
- (4) Any thing, act, occupation, condition, or use of property that has been defined by the this Code as a nuisance;
- (5) Any violation of this Code that is not corrected within a reasonable time after notice from the City to a responsible party."

Section 2. §66-3 of the Municipal Code, entitled "Prohibited" is hereby repealed and re-created to read as follows:

"No person shall erect, contrive, cause, continue, maintain, or permit to exist any nuisance within the city "

Section 3. §66-74 of the Municipal Code, entitled "Playing radio, phonograph or musical instrument" is hereby repealed and re-created to read as follows:

"Sec. 66-74. Playing music.

The playing of any musical instrument, radio, or any device designed to play live or recorded music, speech, or other noise in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of persons in any office, hospital or in any hotel or other type of residence or of any person in the vicinity is declared to be in violation of this article."

Section 4. Article IV of Chapter 66 of the Municipal Code is hereby created to read as follows:

"ARTICLE IV. NUISANCE ABATEMENT

Sec. 66-100 Summary Abatement

If an officer determines that a nuisance exists and that there is an imminent danger to public health, safety, peace, morals, or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Section 66-102. The notice shall order abatement of the nuisance within a period not less than 24 hours or greater than seven calendar days and shall state that unless the nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, maintaining, or permitting 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.

Sec. 66-101 Nonsummary Abatement

If an officer determines that a nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, the officer may follow one or both of the following procedures to obtain the abatement of the nuisance.

(1) Abatement notice

The officer may issue and serve notice to abate the nuisance pursuant to Section 66-102. The notice shall order abatement of the nuisance within a period not less than 15 calendar days and shall state that unless the nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, maintaining, or permitting 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.

(2) Abatement plan

The officer may order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a hearing to discuss abatement of the nuisance. The hearing shall include the officer and a representative of the City Attorney's Office. Notice of the hearing shall be issued and served by the officer pursuant to Section 66-102. At the hearing, the parties may formulate an abatement

plan that indicates the measures to be taken by the owner, occupant, or person causing, maintaining, or permitting the nuisance to abate the nuisance.

Sec 66-102 Notice to Abate

The officer shall attempt personal service on the owner, agent of the owner, occupant or other person causing, maintaining or permitting the nuisance at such person's last-known address. If this attempt is unsuccessful or impractical, the officer shall post a copy of the notice in a conspicuous place in or about the building where the nuisance exists and send notice by first class mail to the last-known address of the owner or agent of the owner.

Sec. 66-103 Remedy from Abatement Order

Any person affected by an order under this Article shall, prior to the abatement date, apply to the circuit court for an order restraining the City from entering on the premises and abating or removing the nuisance, or be forever barred.

Sec. 66-104 Non-Abatement Prohibited

(1) Failure to comply with order to abate

No person shall fail to comply with a lawful order to abate a public nuisance issued pursuant to this section. Each day of non-compliance with a lawful order to abate issued pursuant to this section is a separate violation.

(2) Failure to appear for hearing

No person shall fail to comply with an order to appear for an abatement hearing pursuant to Sec. 66-102.

(3) Failure to observe abatement plan

No person shall fail to comply with the terms of an abatement plan.

Sec. 66-105 Abatement by Court Action

If an officer determines that a public nuisance exists, the officer may refer the nuisance to the City Attorney for review. If the City Attorney determines that alternative enforcement methods have failed to abate the nuisance or would be ineffective in doing so, the City Attorney may cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court of Sheboygan County in accordance with the provisions of the Wisconsin Statutes.

Sec. 66-106 Other Methods Not Excluded

Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with alternative procedures contained in this Code or in accordance with State law.

For the purposes of this Chapter, "officer" shall mean the any peace officer, including a police officer, a fire inspector, a building inspector, or a housing inspector. These officers shall enforce the provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Article to abate a nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does in fact exist."

Section 5. Article V of Chapter 66 of the Municipal Code is hereby created to read as follows:

"ARTICLE V CHRONIC NUISANCE PREMISES

Sec. 66-150 Definitions

The following terms shall be defined as follows in this subchapter.

- (1) *Chief*: The Chief of Police or his or her designee.
- (2) *Enforcement Action*: Arrest, the issuance of a citation, or the issuance of a written or verbal warning.
- (3) *Nuisance Activity*: Any of the following activities, behaviors, or conduct occurring on a premises:
 - (a) An act of harassment, as defined in §947.013, Wis. Stats.
 - (b) Disorderly Conduct, as defined in §947.01, Wis. Stats., or Sec. 70-151 of the Sheboygan Municipal Code.
 - (c) Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
 - (d) Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
 - (e) Prostitution, as defined in §944.30, Wis. Stats.
 - (f) Theft, as defined in §943.20, Wis. Stats.
 - (g) Receiving Stolen Property, as defined in §943.34, Wis. Stats.
 - (h) Arson, as defined in §943.02, Wis. Stats.
 - (i) Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
 - (j) Gambling, as defined in §945.02, Wis. Stats.
 - (k) Animal violations, as defined in Chapter 18, Sheboygan Municipal Code.
 - (l) Trespass, as defined in §943.13 and §943.14, Wis. Stats., or Sec. 70-183 of the Sheboygan Municipal Code.
 - (m) Weapons violations, as defined in Article VII, Division 2, of Chapter 70, Sheboygan Municipal Code.
 - (n) Noise violations, as defined in Article III of this Chapter.
 - (o) Being a party to, as defined in Sec. 1-27 of the Sheboygan Municipal Code, or any conspiracy to commit, as defined in §939.31, Wis. Stats., or any attempt to commit, as defined in §939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in this subsection).
 - (p) The execution of arrest or search warrants at a particular location.
 - (q) Alcohol violations, as defined in Chapter 10, Sheboygan Municipal Code, or §125.07, Wis. Stats.

- (r) Obstructing or Resisting an Officer, as defined in §946.41, Wis. Stats.
- (s) City of Sheboygan Inspection-related calls where the Police Department responds.

(4) *Owner*: The owner of the premises and his or her agents.

(5) *Premises*: An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.

Sec. 66-151 Notice

Whenever the Chief determines that three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the Chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner. The notice shall be delivered pursuant to Sec. 66-102, Sheboygan Municipal Code.

Sec. 66-152 Abatement Plan

Any owner receiving notice pursuant to Sec. 66-151 shall meet with the Chief, or his/her designee, within 5 days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the owner shall submit to the Chief, or his/her designee, an abatement plan to end the nuisance activity on the property. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.

Sec. 66-153 Additional Nuisance Activity

Whenever the Chief determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Section 66-151, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

Sec. 66-154 Appeal

Appeal of any determination of the Chief of Police pursuant to this Article may be submitted for a hearing to the Law and Licensing Committee of the Common Council. Chapter 68, Wisconsin Statutes, shall not apply to such an appeal."

Section 6. S26-732 of the Municipal Code, entitled "Exterior Property Area" is hereby repealed and re-created to read as follows:

"Sec. 26-732. Exterior Property Area.

No person, shall use, occupy, own, or permit use of any structure or premises that does not comply with the following requirements. Any such violation is a nuisance. The housing inspector shall cause inspections to be made of all premises, as necessary, to secure compliance with this section, and may cause the abatement of the nuisance under the provisions of this Chapter or Chapter 66 of this Code.

(1) General

No person shall use or maintain building exteriors or surrounding premises in a manner that limits the use or enjoyment of neighboring property or which causes or tends to cause diminution of the value of the property of others in the neighborhood in which such premises is located by reason of:

(a) Exterior storage of scrap lumber, junk, trash, or other debris, including, without limitation of enumeration, discarded objects or equipment such as motor vehicles, furniture, appliances, farm or manufacturing equipment, building materials, or litter.

(b) Exterior patchwork, repair, or reconstruction that results in a multi-textured or multi-colored effect or appearance not consonant with the decor, architectural design, or aesthetics of the rest of such building.

(2) Sanitation.

All exterior property areas shall be maintained in a clean and sanitary condition free from any accumulation of rubbish, garbage or debris.

(3) Grading and drainage of premises.

All premises shall be so graded and maintained that no stagnant water will accumulate or stand on the premises or within any building or structure located on the premises.

(4) Insect and rodent harborage.

Every owner of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation is caused by failure of the responsible person to maintain a dwelling in a ratproof and insectproof condition, extermination shall be the responsibility of the owner.

(5) Accessory structures.

All accessory structures, including detached garages, shall be maintained structurally sound and in good repair.

Section 7. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.