

**TOWN OF NEWTON
MANITOWOC COUNTY, WISCONSIN**

**ORDINANCE NO. 7132016
PUBLIC NUISANCE ORDINANCE
AN ORDINANCE TO DEFINE AND PROHIBIT PUBLIC NUISANCES**

It is in the interests of the public that certain nuisances be defined as public nuisances; and the Town Board of the Town of Newton has power under Village Powers pursuant to Section 60.22 (3), Wis. Stat., to enact ordinances defining and prohibiting public nuisances.

The Town Board of the Town of Newton deems it in the public interest to revise the Public Nuisance Ordinance No. 1999-10-13;

The Town Board of the Town of Newton, Manitowoc County, Wisconsin, does hereby ordain Ordinance No. 1999-10-13 is hereby repealed and the following is adopted as the Town Public Nuisance Ordinance:

1.01. PUBLIC NUISANCES PROHIBITED

No person may create, erect, contrive, cause, continue, maintain, install, construct, or permit to exist a public nuisance within the Town of Newton, Manitowoc County, Wisconsin (herein "Town").

1.02. DEFINITIONS AND DESCRIPTIONS

(A) **PUBLIC NUISANCE.** A public nuisance is a thing, act, occupation, condition or use of property that continues in the Town for such length of time as to do any of the following:

- (1) Substantially annoy, interfere with, injure or endanger the comfort, health, repose or safety of the public;
- (2) in any way render the public insecure in life or in the use of property;
- (3) greatly offend the public morals or decency; or
- (4) unlawfully and substantially interfere with, or obstruct, or tend to obstruct or render dangerous for passage any road, highway, navigable body of water or other public way or the use of public property.

(B) **PUBLIC NUISANCES AFFECTING HEALTH.** The following acts, uses, activities, omissions, places, conditions, and things are hereby specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the **provisions** of subsection (A) of this section:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, bird or fowl not intended for human consumption or food which are not buried or otherwise disposed of in appropriate sanitary manner within 24 hours after the death of such animal, bird or fowl.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires, or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) Privy vaults and garbage cans which are not fly-tight.
- (5) All noxious weeds and other rank and over abundant growth of vegetation.

All weeds and grasses shall be kept cut to a height not to exceed eight (8) inches within fifty (50) feet of the perimeter of a structure (residential or non-residential), or to the boundary line of the parcel on which the structure is located, whichever is less.

(6) All animals running at large.

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

(8) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any road, highway, highway ditch, or public place within the Town of Newton.

(9) Any use of property where noxious odor, stench, gas or smoke escapes or is emitted into the open air which tends to or does substantially annoy, interfere with, injure, or endanger the comfort, health, repose, or safety of the public. In this subsection, "noxious odor" means an odor that is repulsive to the senses of ordinary persons in the Town and that seriously annoys or causes serious discomfort, serious injury to the health, or serious inconvenience to the health or safety of persons **within** the Town.

(C) PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts omissions, places, conditions, and objects are hereby declared to be public nuisances affecting peace and safety; however, such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (A) of this section:

(1) All signs and billboards, awnings and other similar structures over or near roads, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) All unauthorized signs, signals, markings, or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance, or manner of operation, interferes with the effectiveness of any such device, sign or signal.

(3) All trees, hedges, billboards, or other obstructions which tend to prevent persons driving vehicles on public roads or highways from obtaining a clear view of traffic when approaching an intersection and which fall within the minimum sight triangle established by the Zoning Ordinance for the Town of Newton.

(4) All limbs of trees which project over and less than fifteen (15) feet above the surface of a public road or highway.

(5) The use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town of Newton.

(6) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

(7) All wires over a road, highway, or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(8) All loud or unnecessary noises which unreasonably disturb the peace and good order of the neighborhood or unreasonably disturb or annoy persons using or occupying property in the neighborhood.

(9) The keeping or harboring of any animal or fowl which, by frequently or habitually howling, yelping, barking, crowing, or making other noises, shall unreasonably disturb the peace and good order of the neighborhood or unreasonably disturb or annoy persons within the Town.

(10) Any obstruction located in whole or in part within the right-of-way of a road or highway and any excavation in or under the same, except as permitted by the ordinances of the Town of Newton or which, although made in accordance with such ordinances, remains or is kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which does not conform to the permit. An obstruction includes, but is not limited to, any fence, stand, building, structure, vehicle, machinery, or other thing or object.

Any encroachment, alteration, disturbance, addition of fill, or installation of a culvert in or under a road or highway except as complies with any permit for such activity issued pursuant to Sec. 86.07 (2), Wis. Stat.

(11) All open and unguarded pits, wells, excavations, or unused basements accessible from

any public road or highway.

(12) All abandoned refrigerators, freezers or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(13) Repeated or continuous violation of the ordinances of the Town of Newton or Wisconsin Statutes relating to the use or storage of flammable liquids.

(14) All snow and ice deposited on Town rights-of-way and not removed or sprinkled with ashes, sawdust, sand or other chemical removers.

(15) Repeated or continuous violations of any ordinance of the Town or Wisconsin Statute relating to the public health, safety, peace, morals, or welfare.

1.03. TREES AND SHRUBS

It is the policy of the Town of Newton to regulate and control the planting, transplanting, removal, maintenance, and protection of trees and shrubs in or upon all public areas in the Town in order to eliminate and guard against dangerous conditions which may result in injury to persons using the roads, highways, or public areas of the Town; to promote the beauty and general welfare of the Town; to protect trees and shrubs located in the public areas of the Town from undesirable and unsafe planting, removal, treatment and maintenance practices; and to control the spread of tree disease.

(A) DEFINITIONS.

(1) Bush or shrub: a low-spreading woody plant with several permanent stems.

(2) Tree: a woody perennial plant with one main stem or trunk having a diameter of at least two inches, one foot above ground, and which is capable to attaining a height in excess of ten feet above the ground.

(3) Public trees, bushes, and shrubs: all trees, bushes, or shrubs planted on any park or other property owned, controlled or leased by the Town or on the right-of-way of any road or highway.

(4) Public area: a public park and other land owned, controlled or leased by the Town; the right-of-way of any town road or highway.

(B) PLANTING PROHIBITED. No person shall plant any bush, shrub or tree in any public area in the Town of Newton.

(C) TRIMMING. The owner or occupant of any private property shall keep all trees standing on such property so trimmed that no bough or branch thereof shall hang lower than fifteen (15) feet above the surface of the road or highway. The owner or occupant of any private property shall remove or cause to be removed any dead tree or dead or broken bough or branch on a tree standing on such private property and overhanging any public road or highway.

(D) DAMAGE TO TREES AND SHRUBS IN PUBLIC AREAS. No person shall injure any trees, bushes or shrubs located on any public area. Injury to a tree, bush or shrub shall include, but not be limited to, securing, fastening or running any rope, wire, sign, or other material to, around or through it; breaking, mutilating, defacing, killing, or destroying it; closing or obstructing any open space about the base of it designed to permit access of air, water or fertilizer.

(E) REMOVAL OF TREE OR SHRUB. No person shall remove or cause to be removed any tree, bush or shrub from any public area.

1.04. ABATEMENT OF PUBLIC NUISANCES

(A) **INSPECTION OF PREMISES.** Whenever a written complaint is made to the Town Chairperson or to a Newton Town Enforcement Officer that a public nuisance exists within the Town of Newton, the Enforcement Officer shall promptly and forthwith inspect or cause to be inspected the premises complained of and shall make a written report of findings to the Town Chairperson. Whenever practical, the Town Enforcement Officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk. A complaint shall be made on forms provided by the Town.

(B) **SUMMARY ABATEMENT; IMMEDIATE DANGER.** If the Enforcement Officer in the written report to the Town Chairperson shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Chairperson may direct the Enforcement Office to serve a notice upon the person causing, permitting, or maintaining such nuisance, or on the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to cause the same to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be. The failure to serve the notice as provided in this paragraph shall not affect the authority of the Town to abate the nuisance.

(C) **ABATEMENT; NONIMMEDIATE THREAT.** If the Enforcement Officer in the written report 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, the Town Chairperson may direct the Enforcement Officer to serve a notice as specified under paragraph (B), except 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 ten (10) days and shall state that unless such nuisance is so abated, the Town may cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, permitting or maintaining the nuisance, as the case may be. If the nuisance is not abated within the time provided or if the owner, occupant or person causing, permitting or maintaining the nuisance cannot be found, the Town Chairperson, upon direction of the Town Board, shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Manitowoc County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes. In addition, the Chairperson may direct the Enforcement Officer to issue one or more citations for each day of violation for a said time period, and to report back whether compliance has occurred. Notwithstanding the foregoing, in the case of a nuisance determined under Sec. 1.02(B)(5) for weeds and grasses, notice shall be served as herein to abate or remove the nuisance within seven (7) days, and if such nuisance is not abated or removed within seven (7) days, the Town may proceed as provided in this section 1.02(C).

(D) **ACCESS.** Except where necessary under subsection (B), no Enforcement Officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property, if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance or other appropriate relief.

(E) **OTHER METHODS NOT EXCLUDED.** Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Newton, or its officials in accordance with the laws of the State of Wisconsin.

1.05. COSTS OF ABATEMENT

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abatement of any public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting, or maintaining the

nuisance. Such cost shall be assessed against the real estate where such public nuisance occurred, as a special charge. The cost of abatement of a nuisance under Section 1.02(B)(5) for weeds and grasses shall be a minimum of \$300. For any abatement for weeds and grasses which takes longer than one (1) hour, there shall be an additional cost based on time and material for the equipment used in the abatement at the then Classified Equipment Rates Standard of the Wisconsin Department of Transportation, plus actual labor costs.

1.06 ENFORCEMENT PROVISIONS

(A) PENALTY. Any person who shall violate this ordinance, shall, upon conviction thereof, pay a forfeiture as follows:

First offense	\$50
Second offense	\$100
Third offense	\$200
Fourth offense or more offenses	\$400

plus the applicable surcharges, assessments, and costs for each violation. In default of payment of such amounts such person shall be imprisoned in the County Jail until such amounts are paid but not exceeding 90 days.

(B) DAY OF VIOLATION. Each day of violation of this ordinance shall constitute a separate offense.

(C) CITATION. This ordinance may be enforced by the citation procedure as authorized by ordinance.

1.07. SEVERABILITY

The provisions of this Ordinance are severable. If any portion hereof is found to be invalid or unconstitutional by a court of competent jurisdiction, such finding shall not affect the remainder hereof which shall continue to be in full force and effect.

1.08. EFFECTIVE DATE

This Ordinance shall be effective upon adoption and publication according to law.

Adopted: July 13, 2016.

TOWN OF NEWTON

By: _____
Kevin Behnke, Chairperson

Attest: _____
Barbara Pankratz, Clerk