

## Chapter 404

### NUISANCES

**[HISTORY: Adopted by the Town Board of the Town of Buchanan as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Animals — See Ch. 203.  
Fireworks — See Ch. 294.  
Brush, grass and weeds — See Ch. 225.  
Health and sanitation — See Ch. 321.  
Noise — See Ch. 400.  
Solid waste — See Ch. 450.  
Streets, sidewalks and public places — See Ch. 456.  
Junked and abandoned vehicles — See Ch. 492.

#### ARTICLE I

##### General Regulations

**[Adopted 11-4-1997 as §§ 34-26 to 34-32 of the 1997 Code]**

#### **§ 404-1. Public nuisances prohibited.**

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Town.

- A. "Public nuisance" means a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:
- (1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public; and
  - (2) 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.
- B. The following uses and acts are declared public nuisances:
- (1) Any use of property, substances, or things within the Town emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia, or stenches which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the Town.
  - (2) All abandoned wells not securely covered or secured from public use.
  - (3) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the Town.

**§ 404-2. Public nuisances affecting health.**

The following acts, omissions, places, conditions, and things as 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 the term "public nuisances."

- A. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
- D. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Garbage cans which are not flytight.
- F. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the Town limits or within one mile therefrom in such quantities as to endanger the health of persons or ordinary sensibilities or threaten or cause substantial injury to property in the Town.
- G. The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, creamery, or industrial wastes or other substances.

**§ 404-3. 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:

- 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 buildings erected, repaired, or altered in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures. [Amended 8-17-2010 by Ord. No. 2010-03]
- C. 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 device, sign, or signal.

- D. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- E. All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street or less than 10 feet above any other public place.
- F. All use or display of fireworks except as provided by the laws of the state and ordinances of the Town.<sup>1</sup>
- G. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human use.
- H. All wires over streets, alleys, or public grounds which are strung less than 15 feet above the surface thereof.
- I. All loud, discordant, and unnecessary noises or vibrations of any kind.
- J. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town, or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- K. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk.
- L. All abandoned refrigerators 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.
- M. Any unauthorized or unlawful use of property abutting on a public street, alley, or sidewalk which causes large groups of people to gather, obstructing traffic and free use of the streets or sidewalks.
- N. Repeated or continuous violations of the ordinances of the Town or laws of the state relating to the storage of flammable liquids.
- O. All snow and ice not removed or sprinkled with ashes, sawdust, or sand. [Amended 8-17-2010 by Ord. No. 2010-03]
- P. The conducting of any junk business or the use of any open lot or vacant parcel of land or any part thereof or any uncovered or exposed premises outside of a building as a junkyard or for the purpose of exposing any such junk for sale or for the storage thereof. For the purpose of this article, junk shall consist of scraps of old metal, glass, automobiles wholly or partially dismantled, or the parts thereof, or other partially dismantled machinery, or the parts thereof, or old boxes or other refuse matter. It is intended in this article that no violation of this subsection occurs where the junk is contained wholly within a building so as not to be visible outside of such building.

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<sup>1</sup>. Editor's Note: See Ch. 294, Fireworks.

**§ 404-4. Abatement.**

- A. Inspection of premises. Whenever a complaint is made to the Town that a public nuisance exists within the Town, he/she shall promptly notify the Town Administrator/Clerk or Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Administrator/Clerk. [Amended 8-17-2010 by Ord. No. 2010-03]
- B. Summary abatement. Summary abatement shall be executed as follows:
- (1) Notice to owner. If the inspecting officer 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 Administrator/Clerk shall 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 post a copy of the 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 24 hours and shall state that, unless such nuisance is so abated, the Town will cause the nuisance 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. [Amended 8-17-2010 by Ord. No. 2010-03]
  - (2) Abatement by Town. If the nuisance is not abated within the time period or if the owner, occupant, or person causing the nuisance cannot be found, the Health Officer, in case of health nuisances, and the Town Administrator/Clerk, in other cases, 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/she shall file a written report of his findings with the Town Administrator/Clerk who shall cause an action to abate such nuisance to be commenced in the name of the Town in the County or County Circuit Court in accordance with the provisions of Ch. 823, Wis. Stats. [Amended 8-17-2010 by Ord. No. 2010-03]
- D. Other methods not excluded. Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the state.

**§ 404-5. Cost of abatement.**

In addition to any other penalty imposed by this article for the erection, contrivance, creation, continuance, or maintenance of a public nuisance, the cost of abating a public nuisance by the Town 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.<sup>2</sup>

**§ 404-6. Violations and penalties.**

Any person who shall violate any provision of this article shall be subject to a penalty as provided in § 1-7. A separate offense shall be deemed committed on each day on which a violation of any provision of this article occurs or continues.

ARTICLE II  
**Chronic Nuisance Premises**  
[Adopted 8-17-2010 by Ord. No. 2010-02]

**§ 404-7. Definitions.**

The following terms shall be defined as follows in this section:

**ENFORCEMENT ACTION** — Arrest, the issuance of a citation, or the issuance of a written or verbal warning.

**LIEUTENANT** — The Lieutenant of the Outagamie County Sheriff's Department with supervisory duties of Sheriff's Deputies serving the Town of Buchanan or his/her designee.

**NUISANCE ACTIVITY**

- A. Any of the following activities, behaviors, or conduct whenever engaged in by property owners, operators, tenants, occupants, or persons associated with premises:
- (1) An act of harassment, as defined in § 947.013, Wis. Stats.
  - (2) Disorderly conduct, as defined in § 947.01, Wis. Stats.
  - (3) Crimes of violence, as defined in Ch. 940, Wis. Stats.
  - (4) Obstructing or resisting an officer, as defined in § 946.41, Wis. Stats.
  - (5) Crimes against sexual morality, as defined in Ch. 944, Wis. Stats.
  - (6) Any gambling crimes, as defined in Ch. 945, Wis. Stats.
  - (7) Theft, as defined in § 943.20, Wis. Stats.
  - (8) Receiving stolen property, as defined in § 943.34, Wis. Stats.
  - (9) Damage to property, as defined in § 943.01, Wis. Stats.
  - (10) Arson, as defined in § 943.02, Wis. Stats.
  - (11) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Ch. 961, Wis. Stats.

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<sup>2</sup>. Editor's Note: See also Ch. 10, Assessments and Special Charges.

- (12) Trespassing, as defined in §§ 943.13 and 943.14, Wis. Stats.
- (13) Alcohol violations, as defined in Chapter 339, Town of Buchanan Municipal Code, and § 125.07, Wis. Stats.
- (14) Reckless driving, as defined in § 346.62, Wis. Stats.
- (15) Any conspiracy to commit, as defined in § 939.31, Wis. Stats., or attempt to commit, as defined in § 939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in Subsection A(1) through (14) above.
- (16) The execution of arrest or search warrants at a particular location.

B. Exception. Applicable drug, gang, and prostitution offenses will be abated immediately as allowed in Ch. 823, Wis. Stats.

OWNER — The owner of the premises and his/her agents.

PERSONS ASSOCIATED WITH — Any person who, whenever engaged in a nuisance activity, enters, occupies, patronizes, visits or attempts to enter, occupy, patronize or visit a property. Includes any officer, director, customer, agent, employee or independent contractor of a property owner, tenant, or occupant.

PREMISES — An individual rental dwelling unit, an apartment building (all units included as one premises), rental duplex or an individual business premises and associated common areas located in the Town.

**§ 404-8. Notice.**

Whenever the Lieutenant determines that three or more nuisance activities resulting in enforcement action have occurred at the premises during a twelve-month period, the Lieutenant may notify the premises owner in writing. In calculating the requisite nuisance activities, the Lieutenant may count separate qualifying nuisance activities 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 appeals rights of the owner.

**§ 404-9. Delivery of notice.**

The notice shall be deemed to be properly delivered if sent either by certified mail to the property owner's last known address or if delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed properly delivered if left at the property owner's usual place of residence in the presence of a competent family member at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by certified mail to the last known address of the owner as identified by the records of the tax roll.

**§ 404-10. Abatement plan.**

Any owner receiving notice pursuant to §§ 404-8 and 404-9 shall meet with the Lieutenant, or his/her designee, within five business days of receipt of such notice. The parties shall review the problems occurring at the property and agree upon 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.

**§ 404-11. Additional nuisance activity.**

Whenever the Lieutenant determines that additional nuisance activity has occurred at a premises not less than 15 business days after notice has been issued and that reasonable efforts have not been made to abate the nuisance activity, the Lieutenant may calculate the cost of police response and enforcement for this and any subsequent nuisance activities. It shall also cause such charges and administrative costs to be assessed against the premises as a fee for current service authorized by §§ 61.34 and 66.0628, Wis. Stats., and collected as a special charge which the Town may impose as a lien against the real estate upon which the premises is located.

**§ 404-12. Appeal.**

Appeal of the determination of the Lieutenant pursuant to either the notice, abatement plan, or the levying of special charges may be made solely to the Town Board requesting a hearing. Notice of appeal must be in writing and submitted to the Town Board in care of the Town Administrator/Clerk with a copy submitted to the Lieutenant. Chapter 68, Wis. Stats., does not apply to this article.

**§ 404-13. Violations and penalties.**

A. Any person who shall violate any provision of this article shall be penalized pursuant to § 1-7, Town of Buchanan Municipal Code, in addition to imposition of a fee for services constituting a special charge against the real estate imposed under § 404-11. Additionally, the Town may pursue injunctive relief against the owner in the Circuit Court for Outagamie County. All legal costs and attorney fees incurred by the Town for enforcement of this article, pursuant to any remedy available, shall be payable to the Town by the owner of the premises. Judgment for such obligations may be obtained by the Town in either the Small Claims Court or Circuit Court for Outagamie County.

B. Any person who shall violate any provision of this article shall upon due conviction thereof forfeit not less than \$100 nor more than \$1,000 for each such offense, together with the costs of prosecution, and in default of the payment of such forfeiture and costs shall be imprisoned in the county jail until said forfeiture and costs of prosecution are paid, but not to exceed 30 days.