

## Chapter 2

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### Health and Sanitation

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#### **Sec. 6-2-1 Destruction of Noxious Weeds.**

- (a) The Clerk/Treasurer shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the town which he/she owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.
- (b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the Town shall give five (5) days written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Sec. 66.96 of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Weed Commissioner shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
- (c) As provided for in Sec. 66.96(2), Wis. Stats., the Town shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of twelve (12) inches in height from the ground surface shall be prohibited within the Town. Noxious weeds shall include any weed, grass or similar plant growth which, if allowed to pollinate, would cause or produce hayfever in human beings or would cause a skin rash through contact with the skin. Noxious weeds, as defined in this Section and in Section 6-2-2, shall include but not be limited to the following:

Cirsium arvense (Canada Thistle)

Ambrosia artemisiifolia (Common Ragweed)  
Ambrosia trifida (Great Ragweed)  
Euphorbia esula (Leafy Spurge)  
Convolvulus arvensis (Creeping Jenny) (Field Bind Weed)  
Tragopogon dubius (Goat's Beard)  
Rhus radicans (Poison Ivy)  
Cirsium vulgaries (Blue Thistle)  
Pastinaca sativa (Wild Parsnip)  
Arctium minus (Burdock)  
Xanthium strumarium (Cocklebur)  
Amaranthus retroflexus (Pigweed)  
Chenopodium album (Common Lambsquarter)  
Rumex Crispus (Curled Dock)  
Plantago Iancellata (English Plantain)

Noxious grasses, as defined in this Section, shall include but not be limited to the following:

Agrostia alba (Redtop)  
Sorghum halepense (Johnson)  
Setaria (Foxtail)

Noxious weeds are also the following plants and other rank growth:

Ragweed  
Thistles  
Smartweed  
Dandelions (over 12 inches in height)  
Milkweed (over 12 inches in height)

*State Law Reference:* Sec. 66.96, Wis. Stats.

## **Sec. 6-2-2 Regulation of Length of Lawn and Grasses.**

- (a) **Purpose.** This Section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive length in the Town of Westport.
- (b) **Public Nuisance Declared.** The Town Board finds that lawns, grasses and noxious weeds on non-agricultural, non-conservancy lots or parcels of land, as classified under the applicable zoning code, within the Town of Westport which exceed eight (8) inches in length adversely affect the public health and safety of the public in that they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard and a safety hazard in that debris can be hidden in the grass, interferes with the public convenience and adversely

affects property values of other land within the Town. For that reason, any non-agricultural lawn, grass or weed on a lot or other parcel of land which exceeds eight (8) inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area and/or wetland area.

- (c) **Nuisances Prohibited.** No person, firm or corporation shall permit any public nuisance as defined in Subsection (b) above to remain on any premises owned or controlled by him or her within the Town.
- (d) **Inspection.** The Weed Commissioner or his or her designee shall inspect or cause to be inspected all premises and places within the Town to determine whether any public nuisance as defined in Subsection (b) above exists.
- (e) **Abatement of Nuisance.**
  - (1) If the Weed Commissioner shall determine with reasonable certainty that any public nuisance as defined in Subsection (b) above exists, he or she shall immediately cause written notice to be served that the Town proposes to have the lot grass or lawn cut so as to conform with this Section.
  - (2) The notice shall be served on the owner of the lot or parcel of land or, if he or she is not known and there is a tenant occupying the property, then to the tenant, at least five (5) days before the grass or lawn will be cut.
- (f) **Due Process Hearing.** If the owner believes that his/her grasses or weeds are not a nuisance, he/she may request a hearing before the Town Board. The request for said hearing must be made in writing to the Clerk/Treasurer's office within the five (5) days set forth in the Weed Commissioner's notice. Upon application for the hearing, the property owner must deposit a \$200 bond. If a decision is rendered in the property owner's favor, the \$200 will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of Town personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing by the Town Board shall be held within seven (7) days from the date of the owner's request. The property in question will not be mowed by the Town until such time as the hearing is held by the Board. At the hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross-examine witnesses presented by the Town as well as subpoena witnesses for his own case. At the closing of the hearing, the Town Board shall make its determination in writing specifying its findings, facts, and conclusions. If the Town Board determines that a public nuisance did exist, the Board shall order the Weed Commissioner to mow the property in question unless the property has been mowed by the owner within forty-eight (48) hours of the Town Board's decision. If the owner does not abate the nuisance within the described 48 hours, the Weed Commissioner shall cause the same nuisance to be abated and cost in excess of the forfeited fee assessed accordingly.
- (g) **Town's Option to Abate Nuisance.** In any case where the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth above, then, and in that event, the Town may elect to cut said lawn, grass or weeds as follows:

- (1) The written notice required in Subsection (e) shall inform said person that in the event of his/her failure to abate the nuisance within the prescribed time, the Town shall abate the same and the cost thereof shall be assessed to the property owner as a special charge.
- (2) The Town shall cut or cause to be cut all grass and weeds from the subject's property and shall charge the expenses of so doing at a rate as established by resolution by the Town Board. The charges shall be set forth in a statement to the Clerk/Treasurer who, in turn, shall mail the same to the owner, occupant or person in charge of the subject premises. If said statement is not paid in full within thirty (30) days thereafter, the Clerk/Treasurer shall enter the charges in the tax roll as a special tax against said lot or parcel of land, and the same shall be collected in all respects like other taxes upon real estate, or as provided under Sec. 66.615(3)(f), Wis. Stats.

(h) **Natural Lawns.**

- (1) ***Definitions and Locations.*** Sec. 6-2-2(a) - (g) shall not apply to natural lawns. Natural lawns as used in this subsection shall include common species of grass and wild florals native to North America that are designed and purposely cultivated to exceed eight (8) inches in height from the ground. Specifically excluded in natural lawns are the noxious grasses and weeds identified in Section 6-2-1 of this Chapter. Natural lawns shall not contain litter or debris and shall not harbor undesirable wildlife. Natural lawns shall not be permitted in any Town owned property including street rights-of-way. Natural lawns shall not be permitted on property located between the sidewalk and the street (or a strip not less than ten (10) feet adjacent to the street where there is no sidewalk) whether the area is under public or private ownership. In addition, natural lawns shall not be permitted within ten (10) feet of abutting property unless permitted in writing by the owner of the abutting property on the side so affected.
- (2) ***Safety Precautions.***
  - a. When, in the opinion of the Fire Chief of the Fire Department serving the Town, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the Fire Chief may order the cutting of natural lawns to a safe condition. The natural lawn shall be cut to a safe condition within three (3) days upon receiving written direction from the Fire Chief.
  - b. Natural lawns shall not be removed through the process of burning unless approved by the Fire Chief. The Fire Chief shall review all requests to burn natural lawns and shall determine if circumstances are proper and all applicable requirements have been fulfilled to ensure public safety. Burning of natural lawns shall be strictly prohibited unless a written permit to burn is issued by the Fire Chief. The Fire Chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby ensuring the public safety. In addition the property owner requesting permission to burn the natural lawn shall produce evidence of property

damage and liability insurance identifying the Town as a party insured. A minimum amount of acceptable insurance shall be Three Hundred Thousand dollars (\$300,000).

(3) ***Public Nuisance Defined – Abatement After Notice.***

- a. The growth of a natural lawn that does not comply with this section shall be considered a public nuisance. Violators shall be served with a notice of public nuisance by certified mail to the last known mailing address of the property owner.
- b. If the person so served with a notice of public nuisance violation does not abate the nuisance within ten (10) days, the Town Weed Commissioner may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such property owner. Notice of the bill for abatement of the public nuisance shall be mailed to the owner of the premises and shall be payable within ten (10) calendar days from receipt thereof. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, the Town Clerk/Treasurer shall enter those charges onto the tax roll as a special tax as provided by State statute.
- c. The failure of the Town Clerk/Treasurer to record such claim or to mail such notice or the failure of the owner to receive such notice shall not affect the right to place the Town expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this Section.

(4) ***Penalty.***

- a. Any person, firm or corporation that does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalty found in Section 1-1-6.
- b. In addition to any penalties herein provided, the Town may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.

### **Sec. 6-2-3 Mining and Reclamation.**

- (a) **Purpose.** This Section is to promote the public health, safety, comfort, convenience, prosperity and general welfare of the Town of Westport, to encourage the most appropriate and efficient use of land throughout the Town of Westport, to preserve and increase the amenities of the Town of Westport and to promote conservation of land throughout the Town of Westport.
- (b) **Mining.** The extraction, excavation or grading of sand, gravel, sod, earth or other material from the land for any purpose in the amount of four hundred (400) cubic yards or more shall be mining. In the Town of Westport, the conduct of mining shall be permitted only upon issuance of a conditional use permit by the Building Inspector of the Town of Westport to the owner of the land upon which said mining is to be conducted. As a condition precedent

to the issuance of said permit, the owner of the land upon which such mining is to be conducted shall furnish to and receive approval from the Building Inspector of a plan in writing which shall provide that all excavations, open cuts, side slopes, and other land surface disturbances are to be mulched, seeded, sodded or otherwise protected so that erosion, siltation, sedimentation and washing will not adversely affect the adjacent and surrounding land, or lakes, streams or watercourses in the area.

- (c) **Reclamation.** The process by which four hundred (400) cubic yards or more of fill is to be deposited so as to elevate the grade of any land for any purpose shall be land reclamation. In the Town of Westport, the conduct of land reclamation shall be permitted only by issuance of a conditional use permit by the Building Inspector of the Town of Westport to the owner of the land upon which the reclamation is to be conducted. As a condition precedent to the issuance of said permit, the owner of the land which is to be reclaimed shall furnish to and receive approval from the Building Inspector of a finished grade plan in writing which shall specify the type or types of fill to be used and which shall also provide for a program of erosion control so that the land reclamation will not adversely affect the adjacent and surrounding land, or lakes, streams or watercourses in the area.
- (d) **Violations.** If, after the Building Inspector approves a plan pursuant to Subsections (b) or (c), the owner of the lands involved fails to follow said approved plan, the Building Inspector may implement said approved plan, and the Town of Westport shall recover from said owner the reasonable costs and expenses incurred by the Town of Westport in so implementing said plan, and said owner shall also pay to the Town of Westport any damage resulting to the Town of Westport because of said owner's failure. In addition to the foregoing, the owner of lands upon which mining or reclamation activities are conducted who fails to obtain the conditional use permit required by this Section, or who fails to follow an approved plan submitted as a condition for the issuance of said conditional use permit, shall be subject to a forfeiture pursuant to Section 1-1-6. Each day of violation of this Section shall constitute a separate violation.

#### **Sec. 6-2-4      Solid Waste Disposal Licenses.**

- (a) **Purpose.** The purpose of this Section is to regulate the disposal of waste, garbage, refuse and sludge by individuals, corporations and municipalities within the Town of Westport. Because of the possible danger to the health, safety and welfare of the public, such disposal within the Town shall be permitted only under the terms and conditions of this Section.

- (b) **Definitions.** The following definitions shall be applicable in this Section:
- (1) **Disposal.** Includes, but is not limited to, unloading, throwing away, discarding, emptying, abandoning, discharging, burning or burying waste, garbage, refuse or sludge on, into or under any property or lands, whether publicly or privately owned, within the Town of Westport.
  - (2) **Waste.** Garbage, refuse and all other discarded or salvageable material, including materials resulting from industrial, commercial and agricultural operations and from domestic use and public service activities.
  - (3) **Garbage.** Discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
  - (4) **Refuse.** Combustible and noncombustible discarded material, including, but not limited to, trash, rubbish, paper, wood, metal, glass, plastic, rubber, cloth, ashes, litter and street rubbish, industrial waste, dead animals, mine tailings, gravel pit and quarry spoils and material and debris resulting from construction or demolition.
  - (5) **Sludge.** Sewage treatment residue in any form whatsoever, whether solid, semisolid or liquid, that has been processed or treated in any way, form or manner. It does not include septage to be spread on land as defined and regulated by Sec. 146.20, Wis. Stats.
  - (6) **Municipality.** Any city, Town, town or county, or other local government entity.
- (c) **Permit Required.** Except as expressly permitted in Subsection (d), no person, corporation or municipality shall dispose of waste, garbage, refuse or sludge within the Town of Westport unless a permit to engage in such dumping or disposal is first obtained from the Town under the conditions prescribed herein.
- (d) **Exceptions to Regulations.** The following are not within the scope or meaning of this Section:
- (1) Sites used for disposal of waste, garbage or refuse from a single family or household, a member of which is the owner, occupant or lessee of the property, provided, however, that such waste, garbage or refuse is placed in suitable containers or stored in such other way as not to cause a public or private nuisance.
  - (2) The use of sanitary privies and what are commonly known as seepage beds or septic tanks which conform to applicable ordinances of the Town or the discharge of human waste products into any public sewage system located within the Town.
  - (3) A farm on which only animal waste resulting from farming operations is disposed of.
  - (4) Any waste disposal operation under the direction and control of the Town.
- (e) **General Regulations.** Persons or municipalities permitted to engage in disposal operations in the Town of Westport are subject to the following regulations:
- (1) The disposal operations must be conducted in such a way as not to constitute a public or private nuisance.
  - (2) The disposal operations are permitted only in the agriculturally or industrially zoned areas as set forth in the official zoning map of Dane County and be consistent with Town ordinances and master plans.

- (3) Persons or municipalities engaged in dumping or disposal operations must conduct the operations in such a way that dust, dirt, debris or other materials or substances will not be carried by wind or water across the boundary of the parcel of land being used for the operations.
- (4) A covering which meets standards established by the Wisconsin Department of Natural Resources shall be placed over all of the area used for the disposal operation within a reasonable time, not to exceed ten (10) days, after the disposal occurs. The covering must be done so as to make the area covered compatible with the surrounding and adjacent property in such a way as not to substantially depreciate property values within the immediate area unless property owners have been previously compensated for the loss.
- (f) **Permit Application.** An application shall be filed with the Town Clerk/Treasurer at least thirty (30) days before a public hearing is held. The application and accompanying information shall be followed by a sworn statement that they are true and factual. The information to be provided shall include:
  - (1) Name, address and telephone number of the applicant.
  - (2) Location, current owners and legal description of the site of the proposed facility.
  - (3) Names, addresses and telephone numbers of any persons who will represent the applicant.
  - (4) Copies of available site reports, feasibility reports, engineering plans or other documents filed or to be filed with the Department of Natural Resources or the U.S. EPA that are related to the proposed facility.
  - (5) A plan for construction, operation, maintenance, closure and long-term care of the proposed facility that describes the size, capacity and other features of the site and its proposed future.
  - (6) A plan for financial, legal and environmental protection of the Town government, its employees and agents and for current and future residents living within one (1) mile of the facility.
  - (7) Proposed traffic patterns to and from the proposed facility and for roadway usage for access to the site.
  - (8) Copies of current financial statements or other financial information.
- (g) **Public Hearing Requirements.**
  - (1) A public hearing will be held at which the Town Board will invite all interested parties from the Town and the applicant to provide information as to:
    - a. The need for the permit;
    - b. Positive and negative potential effects of the proposed facility on the Town and its residents; and
    - c. The probability of reasonable compliance by the applicant with the general regulations of this Section. The hearing will be of an informational nature of the Town Board.
  - (2) The hearing will be held under the following conditions:
    - a. A Class 3 notice as prescribed by statute will be given.

- b. The cost of publication of such notice will be deposited in advance by the applicant.
  - c. The hearing will be held on the date specified in the notice or on any adjourned date.
- (h) **Application Fee and Costs.** An application for a permit for a solid waste facility shall be filed with the Town Clerk/Treasurer in writing. The initial application fee of Five Thousand Dollars (\$5,000.00) shall accompany the application, unless waived or reduced by the Town Board. In addition, the Town Board may charge the applicant an additional fee to reimburse the Town for attorneys' fees and experts' fees related to the application process. The total application fees, both initial and subsequent, shall not exceed Twenty Thousand Dollars (\$20,000.00) for any application.
- (i) **Bond; Inspections; Revocation of Permit.**
- (1) **Bond.**
    - a. A permit under this Section shall not be effective unless there is on file with the Town Clerk/Treasurer a cash bond or a bond with a corporate surety duly licensed in the State of Wisconsin in the penal amount of One Hundred Thousand Dollars (\$100,000.00). The bond is to assure that the applicant will comply with all the provisions of this Section and will save harmless, indemnify and defend the Town, its officers, its representatives and its agents from any expenses or costs incurred through action of the applicant with regard to the facility.
    - b. If any provision of this Section is in violation or if the disposal plan is not carried out, the Town shall have the right to revoke the disposal permit after a public hearing and, if necessary, to obtain a court order terminating such operation. If the owner of the land does not cover the disposal area in accordance with the disposal plan, the Town Board shall have the right to correct the violation and to charge the expense against the bond.
  - (2) **Inspections.** The applicant for a disposal permit, in making the application, grants to the Town the right to go on the land for necessary inspections at any time and to carry out the disposal plan if the owner or occupant of the land fails to do so after reasonable notice is given.
  - (3) **Issuance.** The application for a permit shall be processed within ninety (90) days of the receipt of a completed application accompanied by full documentation and required bond. It shall be issued if the Town Board is satisfied that there has been and will be reasonable compliance with the conditions of this Section.
  - (4) **Revocation.** The permit, once issued, may be revoked after public hearing upon a published Class 1 notice by the Town at any time if any of the conditions upon which it was issued or any terms of this Section are violated.
- (j) **State Law Applicability.** Nothing contained herein shall be deemed to limit or restrict the application of any state law or administrative regulation of any state agency regulating the subject of this Section.

- (k) **References.** References within this Section to the term "person," "anyone," or like references shall be deemed to refer to a person, a sole proprietorship, a partnership, a corporation, a municipal corporation and also a responsible member or a responsible officer or a responsible managing agent of any single proprietorship, partnership or corporation unless the context clearly indicates otherwise.