

**CITY OF SHEBOYGAN
R. C. 80-23-24**

BY LICENSING, HEARINGS, AND PUBLIC SAFETY COMMITTEE.

SEPTEMBER 18, 2023.

Your Committee to whom was referred Gen. Ord. No. 20-23-24 by Alderpersons Salazar and Felde amending the City's Nuisance Ordinance; recommends amending the Ordinance to delete the words "in article III" in section 36-2(a) and to strike section 36-2(b).

Committee:

PASSED AND ADOPTED BY THE CITY OF SHEBOYGAN COMMON COUNCIL

Presiding Officer

Attest

Ryan Sorenson, Mayor, City of
Sheboygan

Meredith DeBruin, City Clerk, City of
Sheboygan

**CITY OF SHEBOYGAN
ORDINANCE 20-23-24 SUBS. OF
BY ALDERPERSONS SALAZAR AND FELDE.**

SEPTEMBER 18, 2023.

AN ORDINANCE amending the City's Nuisance Ordinance.

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

SECTION 1: **AMENDMENT** “Sec 12-260 Abatement Of Nuisance Fences”
of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 12-260 Abatement Of Nuisance Fences

No fence, screen, enclosure or structure in the nature of a fence shall be erected in the city in such position or place as to be dangerous or detrimental to the health of persons living in any house or premises. Any fence so erected, shall be removed within three days upon the order of the ~~manager~~ director of planning ~~and inspection services or the manager's~~ or the director's designee, issued in writing and served upon the owner, agent or occupant of the premises. Any fence not removed in accordance with such notice shall be removed at public expense, and the cost of such removal shall be assessed against the property on which the fence was located.

(Code 1997, § 26-395; Ord. No. 37-08-09, § 1, 7-21-2008)

SECTION 2: **AMENDMENT** “ARTICLE 36-I NUISANCES IN
GENERAL” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

ARTICLE 36-I NUISANCES IN GENERAL

SECTION 3: **AMENDMENT** “Sec 36-1 Definitions” of the Sheboygan
Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-1 Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public nuisance. ~~Each of the following is a nuisance punishable under this section~~ means:

- (a) Any source of filth, cause of sickness, source of rodent problems or conditions causing a safety hazard.
- (b) Any thing, act, occupation, condition, or use of property that continues for such length of time as to:
 - (1) Substantially annoy, 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, 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.
- (c) Any thing, act, occupation, condition, or use of property that has been defined by state statute as a public nuisance.
- (d) Any thing, act, occupation, condition, or use of property that has been defined by this Code as a nuisance.
- (e) Any violation of this Code that is not corrected within a reasonable time after notice from the city to a responsible party.

(Code 1975, § 25-1; Code 1997, § 66-1; Ord. No. 40-08-09, § 1, 8-18-2008)

SECTION 4: AMENDMENT “Sec 36-2 Penalties” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-2 Penalties

A violation of any of the following sections shall subject the violator to the forfeitures as set forth, together with the costs of prosecution, and, in default of payment of such forfeitures and costs, to imprisonment in the county jail until the forfeitures and costs are paid, but not in excess of the terms stated:

- (a) For a violation of any of the sections ~~in article III~~ of this chapter:
 - (1) For a first violation, a forfeiture of not less than \$10.00 nor more than \$50.00 and, in default of payment thereof, imprisonment for not exceeding ten days.

- (2) For a violation committed within 12 months of a previous violation, a forfeiture of not less than ~~\$50~~25.00 nor more than ~~\$21~~100.00 and, in default of payment thereof, imprisonment for not exceeding 15 days.
- (3) For a violation committed within 12 months of two or more previous violations, a forfeiture of not less than ~~\$20~~50.00 nor more than ~~\$15~~100.00 and, in default of payment thereof, imprisonment for not exceeding 20 days.
- ~~(b) A forfeiture of not less than \$50.00 nor more than \$500.00 and, in default of payment thereof, imprisonment not exceeding 90 days for a violation of any other section in this chapter.~~

(Code 1975, § 25-2; Code 1997, § 66-2; Ord. No. 101-05-06, § 15, 3-20-2006)

SECTION 5: AMENDMENT “Sec 36-4 Right Of Entry” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-4 Right Of Entry

The city ~~planner~~ director of planning or the director's designee may enter into or upon any premises at any time to examine and to ascertain ~~health~~-nuisances upon owner or occupant consent or upon reasonable notice and at a reasonable time. Whenever inspection consent is denied, the director of planning or their designee may seek a warrant to conduct such inspection. ~~and any person refusing to allow such entrance during reasonable hours shall be subject to the penalty provided in section 1-15.~~

(Code 1975, § 25-4; Code 1997, § 66-4)

SECTION 6: AMENDMENT “Sec 36-5 Abatement And Removal” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-5 Abatement And Removal

If the city ~~planner~~ director of planning or the director's designee deems it necessary to order the abatement or removal of a health nuisance found on any premises or property, the ~~city planner~~ director of planning or the director's designee shall serve notice upon the owner or occupant to abate or remove such nuisance within a reasonable time of not less than 24 hours. If the owner or occupant shall fail to comply with the notice, the owner or occupant shall be subject to the penalty provided in section ~~36-21-15~~.

(Code 1975, § 25-5; Code 1997, § 66-5)

SECTION 7: AMENDMENT “Sec 36-6 Abatement By City” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-6 Abatement By City

Upon the failure of the owner or occupant to abate any nuisance within the time allowed in the notice to abate and remove such nuisance, ~~or if the owner is a nonresident of the city or cannot be found;~~ the city ~~planner~~ director of planning or the director's designee shall thereupon cause abatement and removal of such nuisance as allowed by law.

(Code 1975, § 25-6; Code 1997, § 66-6)

SECTION 8: AMENDMENT “Sec 36-7 Cost Of Abatement” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-7 Cost Of Abatement

Unless otherwise ordered by the common council, ~~the whole of the~~ all reasonable, direct costs of abatement or removal of a nuisance by the ~~city city planner, plus 50 percent, plus applicable sales tax, with a minimum fee of \$25.00;~~ shall be collected from the owner or occupant or the person causing, permitting or maintaining the nuisance, or such cost may be charged against the premises and, ~~upon certificate of the city planner;~~ assessed against the real estate and collected as are other special taxes.

(Code 1975, § 25-7; Code 1997, § 66-7; Ord. No. 48-01-02, § 1, 11-19-2001)

SECTION 9: AMENDMENT “Sec 36-8 Exposure Of Unwholesome Matter” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-8 ~~Exposure Of Unwholesome Matter~~ Public Nuisances Declared

- (a) ~~Upon any private or public property, street, gutter, sidewalk, alley or in any stream or~~

~~lake in or bordering on the city.~~ Street pollution.

- (1) ~~No~~ person shall place, throw or leave any slop, dirty water or other liquid of offensive smell or that is otherwise noxious or unwholesome; any dead carcass, carrion, meat, fish, entrails, manure, or any dead filth; straw or other rubbish; or any ashes, garbage, dirt or refuse of any kind or description upon any street, gutter, sidewalk, alley, or public place within the city.
 - (2) Notwithstanding the provisions of this section, no person shall be cited for violation of this section with regard to manure from horses engaged in transport on the streets of the city so long as the person provides for the removal of all manure as soon as reasonably possible and no less than once per hour and makes provision to ensure that no manure is permitted to enter any storm sewers.
 - (3) Any person or business engaged in the use of horses in transport on the streets of the city found to be in violation of this section, may, in addition to any other penalty provided, be required, as a condition of continued use of the streets by horses, to have a properly fitted collection device securely in place on all horses while such animals are on the street.
- (b) Emission of smoke and other noxious fumes and materials. No person shall cause, permit, or allow the escape from any smokestack, chimney, vent, window, duct, dust or emission collector, open fire or stockpile of materials within the corporate limits into the open air of such quantities of smoke, ash, dust, soot, cinders, acid, or other fumes, dirt or other materials, or foul, disagreeable, or noxious odors or gases in such place or manner as to cause injury, detriment, or nuisance to any person or to the public or to endanger the health or safety of any such person or the public or in such manner as to cause injury or damage to business or property. The emission of smoke of 60 percent or greater density, as determined by the Ringelmann Chart, as published and used by the Federal Bureau of Mines, shall be considered prima facie evidence of such a nuisance except for a period not exceeding six minutes in any one hour during which time the firebox is cleaned out or a new fire is being built therein.
- (c) Improper storage of material. No person shall cause or permit the outside storage of material on any premises in a manner that creates or may create a public health hazard, safety hazard, or blighting condition.
- (d) Property exteriors. No person shall own, occupy, use, or permit use of any property in the city without maintaining the property in a clean and sanitary condition, free from any noxious odor or the accumulation of any rubbish, garbage, debris, stagnant water, insect or rodent harborage, or abandoned vehicles.
- (e) Graffiti. Unless promptly removed, the existence of graffiti, meaning any inscription, work, figure or design marked, scratched, etched, drawn, or painted with spray paint, liquid paint, ink, chalk, dye or similar substance on buildings, fences, structures, and similar places without the prior express permission of the owner or operator of the property, on any property within the city is expressly declared to be a public nuisance affecting public health, safety, and welfare due to its detrimental impact to property values and inconsistency with the city's property maintenance goals and aesthetic standards.

- (1) *Graffiti prohibited.* No owner of any real property within the city shall allow any graffiti to remain upon any structure located on the owner's property when the graffiti is visible from the street or from other public or private property.
 - (2) *Notification of violation.* Whenever the police department determines that graffiti on any property within the city is visible from the street or from other public or private property, the department shall issue an order to the owner of the property to abate the graffiti in a timely manner. Such order shall be issued in compliance with the requires of section 12-481 of this Code.
 - (3) *Compliance.* A property owner shall be deemed to have complied with an order to abate graffiti if it is obliterated by a primary paint and matching building paint or by such other means as shall obliterate the graffiti.
 - (4) *Failure to comply.* If the property owner fails to comply with the order to abate the graffiti, the building inspector or inspector's designee may cause the graffiti to be abated either by city employees or by independent contractor in accordance with section 36-125 of this Code.
- (f) *Noxious weeds.* No owner of real property within the city shall allow the existence of noxious weeds or of grasses in excess of 12 inches in height to grow thereon.
- (1) *Statutes and regulations adopted.* Wis. Admin. Code Ch. NR 40; Wis. Stat. §§ 66.0407 (noxious weeds); and 66.0517 (weed commissioner), providing for the destruction of noxious weeds, is incorporated into this section by reference as if fully set forth. The department of public works shall carry out the provisions of Wis. Stat. § 66.0517 relating to the destruction of noxious weeds. The department may cut all noxious weeds or grasses in excess of 12 inches in height whenever deemed necessary or upon the failure of the property owner to cut said weeds or grass within 48 hours of proper notice as set forth in Wis. Stat. § 66.0628. Such weed and grass destruction shall be done under the supervision of the duly appointed weed commissioner.
 - (2) The department of public works shall keep an accurate account of the expenses of cutting noxious weeds or grasses from any privately-owned parcel and shall render a bill to the owner of the lot or parcel of land for immediate payment. Such bill shall be rendered as soon as practicable by the department after the work has been done. The department shall report to the common council and to the finance director/ treasurer on or before the first Monday of November in each year all accounts remaining unpaid.
 - (3) Unless otherwise ordered by the common council, the reasonable and direct costs of weed and grass cutting shall be assessed to the owner of the property fronting or abutting upon the upon the street or part of a street from which the weeds have been removed, and such costs shall be included in the next tax collection and collected as a special charge pursuant to Wis. Stat. § 66.0627.
- (g) *Diseased or dangerous trees.* The city hereby declares that the health of trees within the city is threatened by Emerald Ash Borer (*Agilus planipennis*) and other communicable diseases and insect infestations, and as such, the city further declares that any living or standing tree the city forester reasonably determines to be suffering from a communicable disease or insect infestation that threatens the health of the urban

forest, or any standing tree for which all or part thereof threatens the property or personal security of another constitutes a public nuisance.

If the city forester determines with reasonable certainty that a diseased, infected, or dangerous tree exists on privately-owned property within the city, the city forester should notify the property owner, owner's agent, or tenant if neither owner nor agent are known, that the tree or shrub or part thereof must be treated or removed within 30 calendar days of the notification. Such notice shall identify the affected tree with specificity and shall identify the appropriate abatement method(s). Should the owner fail to timely or adequately abate the nuisance, the city forester may pursue any remedies at law available for nuisance abatement.

(h) Unreasonable noise. No person shall cause or permit any unreasonable loud, disturbing, and unnecessary noise or any noise of such character, intensity, or duration as to be detrimental to the life or health of any individual or which is in the disturbance of the public peace and welfare.

(1) The following acts, omissions, places, conditions, and things are specifically declared to be public nuisances in violation of this article, but such enumeration shall not be construed to exclude other nuisances:

- a. The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while in motion, except as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- b. The playing of any musical instrument, radio, or any device designed to play live or recorded music, speech, or other noise in such 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 persons in any office, hospital, or in any hotel or other type of residence or of any person in the vicinity.
- c. The keeping of any animal, bird, or fowl that, by causing frequent or habitual noise that disturbs the comfort or repose of any person in the vicinity.
- d. The use of any automobile, motorcycle, bus, or vehicle so out of repair, so loaded, or so operated in such manner as to create loud and unnecessary grating, grinding, rattling, or other noise.
- e. The discharge into the open air of the exhaust of any steam, stationary internal combustion, motor vehicle, motorboat, hobby boat, hobby car, or hoppy airplane engine, except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.
- f. The use of any drum, loudspeaker, or any other instrument or device for the purpose of attracting attention by creating noise.
- g. The creation of any effective noise adjacent to a school, institution of

learning, church, or court while such is in session or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof.

(2) Exceptions: The following shall not be considered "unreasonable noise" for purposes of this section:

- a. Any vehicle of the city while engaged in necessary public business;
- b. Excavation, construction, or repair of public rights-of-way or other infrastructure and improvements by or on behalf of the city, county, or state during the night, when the public welfare and convenience renders it necessary to perform such work;
- c. Excavation, construction, or repair when the public welfare and convenience renders it necessary to perform such work;
- d. The reasonable use of amplifiers or loudspeakers in the course of public addresses that are not commercial in nature;
- e. The use of power-driven sidewalk snow removal equipment when engaged in snow removal activities;
- f. Any marching band or marching unit while practicing under the supervision of an adult during the hours of 8:30 a.m. to 8:30 p.m.;
- g. Such other specific construction work by or on behalf of the city, county, state, or federal government as may be authorized by the common council;
- h. The reasonable noises attributable to construction-related activity when such activity takes place between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday.

(Code 1975, § 25-8; Code 1997, § 66-8)

SECTION 10: AMENDMENT “Sec 36-9 Emission Of Smoke And Other Noxious Fumes And Materials” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-9 ~~Emission Of Smoke And Other Noxious Fumes And Materials~~(Reserved)

- ~~(a) No person shall cause, permit or allow the escape from any smokestack, chimney, vent, window, duct, dust or emission collector, open fire or stockpile of materials within the corporate limits into the open air of such quantities of smoke, ash, dust, soot, cinders, acid, or other fumes, dirt or other materials or noxious gases in such place or manner as to cause injury, detriment or nuisance to any person or to the public or to endanger the health or safety of any such person or the public or in such manner as to cause injury or damage to business or property. Such is declared to be a public nuisance and is prohibited. The emission of smoke of 60 percent or greater density, as~~

~~determined by the Ringelmann Chart, as published and used by the Federal Bureau of Mines, shall be considered prima facie evidence of such a nuisance except for a period not exceeding six minutes in any one hour during which time the firebox is cleaned out or a new fire is being built therein.~~

- ~~(b) Any person causing, permitting or allowing the escape from any stack, chimney, vent, window, duct, dust or emission collector, open fire or stockpile of materials into the open air of such quantities of materials or noxious gases in such manner as to cause injury, detriment or nuisance to any person or to the public or to endanger the health or safety of any such person or to the public or in such manner as to cause injury or damage to business or property within the corporate limits shall be penalized, as provided in section 36-2. Every day of 24 hours in which such nuisance shall continue shall be deemed a separate offense.~~
- ~~(c) The chief of the fire department shall enforce this section, and any violation thereof may be summarily abated by the chief of the fire department or by anyone whom the fire chief may authorize for such purpose. Such abatement may be in addition to the fines provided for in this article.~~

(Code 1975, § 25-9; Code 1997, § 66-9)

SECTION 11: **REPEAL** “Sec 36-10 Termite-Infested Wood” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-10 ~~Termite-Infested Wood~~(Reserved)

~~Any felled trees, logs, lumber, new or used woodpiles of any type; old and abandoned wood structures and buildings; or wood refuse of any type which are found to be infested by termites shall immediately be disposed of by burning upon order of the building inspector.~~

(Code 1975, § 25-10; Code 1997, § 66-10)

SECTION 12: **REPEAL** “Sec 36-11 Storage Of Material” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-11 ~~Storage Of Material~~(Reserved)

~~Outside storage and ground storage of material shall be of sufficient height off the ground surface to prevent or eliminate a rodent harborage.~~

(Code 1975, § 25-11; Code 1997, § 66-11)

SECTION 13: **REPEAL** “Sec 36-12 Display Of Merchandise” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-12 ~~Display Of Merchandise~~(Reserved)

~~Merchandise displayed for viewing or sale to the public, including protruding display fixtures in areas which require the public to bend or reach into as part of the merchandising, shall be so displayed as not to be a safety hazard to body or limb.~~

(Code 1975, § 25-12; Code 1997, § 66-12)

SECTION 14: **REPEAL** “Sec 36-13 Property Exteriors” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-13 ~~Property Exteriors~~(Reserved)

~~No person shall own, occupy, use, or permit use of any property in the city without maintaining the property in a clean and sanitary condition free from any noxious odor or the accumulation of any rubbish, garbage, debris, stagnant water, insect or rodent harborage, or abandoned vehicles. Violation of this section is declared a nuisance and the violator may be subjected to a citation or the abatement process provided for in this article, or both.~~

(Code 1997, § 66-13; Ord. No. 88-06-07, § 3, 2-19-2007)

SECTION 15: **REPEAL** “Sec 36-14 Graffiti” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-14 ~~Graffiti~~(Reserved)

~~(a) *Definitions.* The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~Graffiti means any inscription, work, figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, dye or other similar substances on buildings, fences, structures and similar places without the express permission of the owner or operator of the property.~~

- ~~(b) *Public nuisance.* The existence of graffiti on any property within the city is expressly declared to be a public nuisance affecting public health, safety and welfare.~~
- ~~(c) *Graffiti prohibited.* No owner of any real property within the city shall allow any graffiti to remain upon any structure located on the owner's property when the graffiti is visible from the street or from other public or private property.~~
- ~~(d) *Notification of violation.* Whenever the building inspection department determines that graffiti on any property within the city is visible from the street or from other public or private property, the department shall issue an order to the owner of the property to abate the graffiti in a timely manner. Such order shall be issued in compliance with the requirements of section 12-481.~~
- ~~(e) *Compliance.* A property owner shall be deemed to have complied with an order to abate graffiti if it is obliterated by a primary paint and matching building paint or by such other means as shall obliterate the graffiti. If paint is used to obliterate graffiti, the paint shall be applied in the manner required by section 12-482.~~
- ~~(f) *Failure to comply.* If the property owner fails to comply with the order to abate the graffiti, the building inspection department may cause the graffiti to be abated either by city employees or by independent contractor. The city and the independent contractor are expressly authorized to enter upon the property and abate the graffiti upon exterior walls, fences, billboards and other structures abutting public streets, property or right-of-way. The city or private contractor will take all reasonable precautions to avoid causing damage to the property where the graffiti is abated. Any paint used to obliterate graffiti shall be as close as practicable to the background color or colors in the area where the graffiti is abated.~~
- ~~(g) *Cost of removal and other charges.* The cost of abating the graffiti shall, pursuant to Wis. Stats. § 66.0627, be imposed as a special charge against the real property for the cost of the services provided. If the special charge is not paid within 30 days, the special charge shall be deemed delinquent. A delinquent special charge shall be a lien against the property as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under Wis. Stats. ch. 74.~~

(Code 1997, § 66-14; Ord. No. 88-06-07, § 4, 2-19-2007)

SECTION 16: **REPEAL** “ARTICLE 36-II WEED CONTROL” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

ARTICLE 36-II ~~WEED CONTROL~~Reserved

~~State law reference~~ Noxious weeds generally, Wis. Stats. § 66.0407.

SECTION 17: **REPEAL** “Sec 36-32 State Law Adopted” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-32 ~~State Law Adopted~~(Reserved)

~~Wis. Stats. § 66.0407 (noxious weeds) and Wis. Stats. § 66.0517 (weed commissioner); providing for the destruction of noxious weeds, are incorporated into this section by reference as if fully set forth, and expanded to include weeds known as goldenrod, timothy grass, ragweed, cocklebur, burweed, marsh elder, resinthistle, pigweed, amaranth, artemisia and Japanese knotweed.~~

(Code 1975, § 25-25; Code 1997, § 66-41; Ord. No. 60-00-01, § 15, 10-2-2000; Ord. No. 18-06-07, § 1, 8-7-2006)

SECTION 18: **REPEAL** “Sec 36-33 Administration; Weed Control Standards; Notice And Cutting” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-33 ~~Administration; Weed Control Standards; Notice And Cutting~~(Reserved)

~~The department of engineering and public works shall carry out the provisions of Wis. Stats. § 66.0517 relating to the destruction of noxious weeds, and the department shall also cut all weeds and grasses in excess of 12 inches in height. The department shall also be allowed to cut weeds and grasses 12 inches high or higher wherever deemed necessary or upon the failure of a property owner to cut the weeds and grasses within 48 hours of proper notice by the department of engineering and public works. Such weed and grass destruction shall be done under the supervision of the duly appointed weed commissioner.~~

(Code 1975, § 25-26; Code 1997, § 66-42; Ord. No. 60-00-01, § 16, 10-2-2000)

SECTION 19: **REPEAL** “Sec 36-34 Record Of Expenses” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-34 ~~Record Of Expenses~~(Reserved)

~~The department of engineering and public works shall keep an accurate account of the expenses of weed cutting in front of every lot, part of a lot or parcel of land fronting or abutting upon any street or sidewalk from which the weeds have been removed and shall render a bill to the property owner of the lot or parcel of land for immediate payment. Such bill shall be rendered as soon as practicable by the department after the work has been done. The department shall report to the common council and to the finance director/treasurer on or before the first Monday of November in each year all accounts remaining unpaid.~~

(Code 1975, § 25-27; Code 1997, § 66-43)

SECTION 20: **REPEAL** “Sec 36-35 Collection Of Expenses” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-35 ~~Collection Of Expenses~~(Reserved)

~~Unless otherwise ordered by the common council, the whole of the cost of weed cutting, plus 50 percent, plus applicable sales tax, with a minimum fee of \$25.00, shall be assessed to the owner of the property fronting or abutting upon the street or part of a street from which the weeds have been removed, and such costs shall be included in the next tax collection and collected as other taxes are collected.~~

(Code 1975, § 25-28; Code 1997, § 66-44; Ord. No. 73-98-99, § 1, 8-17-1998)

SECTION 21: **REPEAL** “ARTICLE 36-III TERMITE CONTROL” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

ARTICLE 36-III ~~TERMITE CONTROL~~(RESERVED)

SECTION 22: **REPEAL** “Sec 36-59 Situations Declared Public Nuisances” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-59 ~~Situations Declared Public Nuisances~~(Reserved)

~~The following are declared to be public nuisances: Any structure, post or wooden article infested with termites. Any building or part thereof or premises adjacent thereto infested with termites or which harbors termite colonies. Any soil or earth infested with termites or which harbors termite colonies.~~

(Code 1975, § 9-165; Code 1997, § 26-1066)

SECTION 23: **REPEAL** “Sec 36-60 Prohibition Of Public Nuisances” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-60 ~~Prohibition Of Public Nuisances~~(Reserved)

~~No person owning or controlling any premises in the city shall permit any public nuisance, as enumerated in section 36-59, to be or exist on such premises.~~

(Code 1975, § 9-166; Code 1997, § 26-1067)

SECTION 24: **REPEAL** “Sec 36-61 Inspection” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-61 ~~Inspection~~(Reserved)

~~The department of building inspection shall inspect or cause to be inspected all premises and places within the city where there is a reason to believe a public nuisance exists.~~

(Code 1975, § 9-167; Code 1997, § 26-1068)

SECTION 25: **REPEAL** “Sec 36-62 Abatement Of Nuisance--Required” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-62 ~~Abatement Of Nuisance--Required~~(Reserved)

- (a) ~~If it is determined that any public nuisance exists upon private premises in violation of the provisions of this article, the department of building inspection shall immediately serve upon the owner of such property, if the owner can be found, or upon the occupant thereof, a written notice stating that such nuisance exists and demanding its abatement within such period of time as may be therein prescribed.~~
- (b) ~~The department shall therein provide information and technical advice to assist property owners to abate the termite nuisance on their property. The building inspector shall advise contractors as to proper methods in making new construction termite resistant.~~

(Code
1975, §
9-168;
Code
1997, §
26-1069)

SECTION 26: **REPEAL** “Sec 36-63 Abatement Of Nuisance--By City” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-63 ~~Abatement Of Nuisance--By City~~(Reserved)

- (a) ~~Where it is determined upon inspection that a termite nuisance exists and that the property owner or occupant, after receipt of notice as described in section 36-62, is making no reasonable effort to abate such nuisance, the department of building inspection shall make a written report of such nuisance to the common council, who shall then proceed to have the nuisance abated. The costs thereof shall be charged against the property as a special tax for abatement of a nuisance, as provided in Wis. Stats. § 254.59.~~
- (b) ~~At the time the department shall make a written report to the council, a copy of such report, together with the notice of the hearing on the report, shall be served on the property owner at least five days prior to the consideration of the matter by the council.~~

~~The property owner shall have the right to be heard prior to council action.~~

(Code
1975, §
9-169;
Code
1997, §
26-
1070)

SECTION 27: **REPEAL** “Sec 36-64 Abatement Of Nuisance--Immediate Action” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-64 ~~Abatement Of Nuisance--Immediate Action~~(Reserved)

~~If, upon inspection, it is determined by the department of engineering and public works that a termite nuisance exists in or upon a public street, alley, park or other public place, including the terrace strip between the curb and the lot line, it shall immediately cause the termite infestation thereon to be abated in such manner as to effectively control or prevent as fully as possible the spread of termite infestation to other property. If any private poles, structures or buildings are located upon any public property, the inspector shall proceed as set forth in section 36-63.~~

(Code 1975, § 9-170; Code 1997, § 26-1071)

SECTION 28: **REPEAL** “Sec 36-65 Soil And Building Removal” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-65 ~~Soil And Building Removal~~(Reserved)

~~No soil, fill or building shall be moved to any other premises within the city without a prior permit, which permit shall be issued by the inspector only after an inspection determining that such soil, earth or building is free from termite infestation. An inspection fee in the sum of \$1.00 shall be charged for such permit and inspection, where no permit or inspection fee has been previously paid.~~

(Code 1975, § 9-171; Code 1997, § 26-1072)

SECTION 29: **REPEAL** “ARTICLE 36-IV NOISE” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

ARTICLE 36-IV ~~NOISE~~(RESERVED)

SECTION 30: **REPEAL** “Sec 36-89 Prohibited Generally” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-89 ~~Prohibited Generally~~(Reserved)

~~Any unreasonably loud, disturbing and unnecessary noise or any noise of such character, intensity or duration as to be detrimental to the life or health of any individual or which is in the disturbance of public peace and welfare is prohibited.~~

(Code 1975, § 25-40; Code 1997, § 66-71)

SECTION 31: **REPEAL** “Sec 36-90 Exceptions” of the Sheboygan Municipal Code is hereby *repealed* as follows:

REPEAL

Sec 36-90 ~~Exceptions~~(Reserved)

~~This article shall not apply to or be enforced against the following:~~

- ~~(a) Any vehicle of the city while engaged upon necessary public business.~~
- ~~(b) Excavation, repair or construction of bridges, marinas, streets or highways by or on behalf of the city, county, or state during the night season, when the public welfare and convenience renders it necessary to perform such work.~~
- ~~(c) Excavation, construction or repair of marinas by and on behalf of the city, county, or state between the hours of 5:00 a.m. and 12:00 midnight, when the public welfare and convenience renders it necessary to perform such work.~~
- ~~(d) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.~~
- ~~(e) The use of power-driven sidewalk snow removal equipment.~~

- ~~(f) Any marching band or marching unit while practicing under the supervision of an adult during the hours of 8:30 a.m. to 8:30 p.m.~~
- ~~(g) Such other specific construction work by or on behalf of the city, county, state or federal government as may be authorized by the common council.~~
- ~~(h) Environmental remediation activities by or on behalf of a potentially responsible party as part of the EPA's Sheboygan River and Harbor Superfund Project.~~

(Code 1975, §
25-41; Code
1997, § 66-72)

SECTION 32: **REPEAL** “Sec 36-91 Horns And Signal Devices” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-91 ~~Horns And Signal Devices~~(Reserved)

~~The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while in motion, except as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time are declared to be in violation of this article.~~

(Code 1975, § 25-42; Code 1997, § 66-73)

SECTION 33: **REPEAL** “Sec 36-92 Playing Music” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-92 ~~Playing Music~~(Reserved)

~~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.~~

(Code 1975, § 25-43; Code 1997, § 66-74; Ord. No. 40-08-09, § 3, 8-18-2008)

SECTION 34: **REPEAL** “Sec 36-93 Animals, Birds, Fowl” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-93 ~~Animals, Birds, Fowl~~(Reserved)

~~The keeping of any animal, bird or fowl which, by causing frequent or long continued noise, shall disturb the comfort or repose of any person in the vicinity is declared to be in violation of this article.~~(Code 1975, § 25-44; Code 1997, § 66-75)

SECTION 35: **REPEAL** “Sec 36-94 Unnecessary Noises From Vehicles” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-94 ~~Unnecessary Noises From Vehicles~~(Reserved)

~~The use of any automobile, motoreycle, bus or vehicle so out of repair, so loaded or so operated in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is declared to be in violation of this article.~~

(Code 1975, § 25-45; Code 1997, § 66-76)

SECTION 36: **REPEAL** “Sec 36-95 Engine Mufflers” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-95 ~~Engine Mufflers~~(Reserved)

~~The discharge into the open air of the exhaust of any steam, stationary internal combustion, motor vehicle, motorboat, hobby boat, hobby car or hobby airplane engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom, is declared to be in violation of this article.~~

(Code 1975, § 25-46; Code 1997, § 66-77; Ord. No. 149-98-99, § 1, 4-19-1999)

SECTION 37: **REPEAL** “Sec 36-96 Drums And Loudspeakers” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-96 ~~Drums And Loudspeakers~~ (Reserved)

~~The use of any drum, loudspeaker or any other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale or display of merchandise, as well as the use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes is declared to be in violation of this article.~~

(Code 1975, § 25-47; Code 1997, § 66-78)

SECTION 38: **REPEAL** “Sec 36-97 Quiet Areas” of the Sheboygan Municipal Code is hereby *repealed* as follows:

R E P E A L

Sec 36-97 ~~Quiet Areas~~ (Reserved)

~~The creation of any effective noise adjacent to any school, institution of learning, church or court while such is in session or adjacent to any hospital, which unreasonably interferes with the workings or sessions thereof, is declared to be in violation of this article.~~

(Code 1975, § 25-48; Code 1997, § 66-79)

SECTION 39: **AMENDMENT** “Sec 36-125 Nonsummary Abatement” of the Sheboygan Municipal Code is hereby *amended* as follows:

A M E N D M E N T

Sec 36-125 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.

(a) *Abatement notice.* The officer may issue and serve notice to abate the nuisance

pursuant to section 36-126. 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.

- (b) *Abatement plan.* The officer may order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a ~~hearing meeting~~ to discuss abatement of the nuisance. The ~~hearing meeting~~ shall include the officer and ~~may include~~ a representative of the city attorney's office. Notice of the ~~hearing meeting~~ shall be issued and served by the officer pursuant to section 36-126. At the ~~hearing meeting~~, 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. If the owner, occupant, or person causing, maintaining, or permitting the nuisance does not agree to reasonable abatement terms, the city may proceed as authorized by law and this chapter.

(Code 1997, § 66-101; Ord. No. 40-08-09, § 4, 8-18-2008)

SECTION 40: **AMENDMENT** “Sec 36-126 Notice To Abate” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-126 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~~ as required by Wis. Stat. § 66.0628 to the last-known address of the owner or agent of the owner.

(Code 1997, § 66-102; Ord. No. 40-08-09, § 4, 8-18-2008)

SECTION 41: **AMENDMENT** “Sec 36-129 Abatement By Court Action” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-129 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 likely 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 county circuit court in accordance with the provisions of state statutes.

(Code 1997, § 66-105; Ord. No. 40-08-09, § 4, 8-18-2008)

SECTION 42: **AMENDMENT** “Sec 36-161 Definitions” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-161 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Chief means the chief of police or the chief's designee.

Chronic nuisance landlord means any owner of a residential premises available for lease or rent within the city who has had three units or 10% of their available units for lease or rent, whichever is less, designated as a chronic nuisance property within a 12-month period.

Chronic nuisance property means any premises where three or more nuisance activities resulting in enforcement action have occurred during a 12-month period, or any premises where three or more enforcement actions were generated from ten percent or more of a premises' available rental units during a 12-month period.

Enforcement action means an arrest, ~~the~~ issuance of a citation, ~~or the~~ issuance of a written, or the issuance of a verbal warning when documented in a report.

Nuisance activity means any of the following activities, behaviors, or conduct occurring on a premises:

- (a) An act of harassment, as defined in Wis. Stats. § 947.013.
- (b) Disorderly conduct, as defined in Wis. Stats. § 947.01 or in section 38-207.
- (c) Battery, substantial battery, or aggravated battery, as defined in Wis. Stats. § 940.19.
- (d) Lewd and lascivious behavior, as defined in Wis. Stats. § 944.20.
- (e) Prostitution, as defined in Wis. Stats. § 944.30.
- (f) Theft, as defined in Wis. Stats. § 943.20.
- (g) Receiving stolen property, as defined in Wis. Stats. § 943.34.
- (h) Arson, as defined in Wis. Stats. § 943.02.

- (i) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stats. ch. 961.
- (j) Gambling, as defined in Wis. Stats. § 945.02.
- (k) Animal violations, as defined in chapter 8.
- (l) Trespass, as defined in Wis. Stats. §§ 943.13 and 943.14 or in section 38-156.
- (m) Weapons violations, as defined in chapter 38, article VI, division 2.
- (n) Noise violations, as defined in article IV of this chapter.
- (o) Being a party to, as defined in section 38-2, or any conspiracy to commit, as defined in Wis. Stats. § 939.31, or any attempt to commit, as defined in Wis. Stats. § 939.32, 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 38 or in Wis. Stats. § 125.07.
- (r) Obstructing or resisting an officer, as defined in Wis. Stats. § 946.41.
- (s) City inspection-related calls where the police department responds.
- (t) Violations of the city's building and construction code found in chapter 12, where building inspection staff responds and enforcement action ensues.
- (u) Violations of the city's zoning code found in chapter 105, where building inspection staff responds and enforcement action ensues.
- (v) Violations of the city's fire prevention, protection, and control code found in chapter 24, where fire department staff responds and enforcement action ensues.
- (w) Violations of the city's signs and advertising code found in chapter 44, where building inspection staff responds and enforcement action ensues.

Owner means the owner of the premises and the owner's agent.

Premises means an individual building, dwelling, or dwelling unit, ~~an apartment building (all units included as one premises), or an individual business premises~~ and associated common areas.

(Code 1997, § 66-150; Ord. No. 40-08-09, § 5, 8-18-2008)

SECTION 43: AMENDMENT “Sec 36-162 Notice” of the Sheboygan Municipal Code is hereby *amended* as follows:

A M E N D M E N T

Sec 36-162 Notice And Chronic Nuisance Designation

- (a) Notice and chronic nuisance property designation. Whenever the police chief determines that three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the police chief may notify the premises owner in writing that the property has become a chronic nuisance. In calculating the requisite nuisance activities, the police 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 or occupant of the premises when such request for assistance relates to domestic abuse, as defined in Wis. Stat. § 813.12(1)(am); sexual assault, as described under Wis. Stat. §§ 940.225, 948.02, and 948.025; or stalking, as described in Wis. Stat. § 940.32. 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 section 36-126.

(b) Notice and chronic nuisance landlord designation. Whenever the police chief determines that an owner meets the definition of a chronic nuisance landlord, the chief shall notify the person in writing that the landlord qualifies as a chronic nuisance landlord. The notice shall contain the street address(es) or legal description(s) sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the costs of future enforcement may be assessed as a special charge against the premises, a notice as to tenant rights pursuant to Wis. Stat. § 704.45 (if applicable), a notice as to the appeal rights of the owner, and an advisement that failure to abate the nuisance activities may result in the city's publication as a chronic nuisance landlord or the city's pursuit of any remedy available in law to abate such nuisance. The notice shall be delivered pursuant to section 36-126.

(Code 1997, § 66-151; Ord. No. 40-08-09, § 5, 8-18-2008)

SECTION 44: **AMENDMENT** “Sec 36-163 Abatement Plan” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 36-163 Abatement Plan

Any owner receiving notice pursuant to section 36-162 shall meet with the police chief or designee within five days of receipt of such notice. The parties shall review the problems occurring at the ~~property~~ premises. Within ten days of this meeting, the owner shall submit to the police chief designee an abatement plan to end the nuisance activity on the ~~property~~ premises. 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. The chief shall provide written notice to the chronic nuisance property owner or chronic nuisance landlord of the acceptance or rejection of the nuisance abatement proposal. If the owner causes the number of chronic nuisance premises to be reduced below the thresholds noted within this chapter, the city shall remove the designation of chronic nuisance landlord.

(Code 1997, § 66-152; Ord. No. 40-08-09, § 5, 8-18-2008)

SECTION 45: **AMENDMENT** “Sec 54-604 Nuisance Abatement” of the Sheboygan Municipal Code is hereby *amended* as follows:

AMENDMENT

Sec 54-604 Nuisance Abatement

The director of public works or designee is authorized to require immediate abatement of any nuisance hereunder that constitutes an immediate threat to the health, safety or well-being of the public. If any nuisance hereunder is not abated within the time specified by the director of public works or designee, the city is authorized to enter onto private property to the extent necessary, and to take any and all measures necessary to abate the nuisance. The cost of abatement, ~~together with a 50 percent surcharge, plus any applicable sales tax, with a minimum fee of \$25.00,~~ shall be assessed as a special charge to the owner, occupant or person causing, maintaining or permitting the public nuisance.

(Code 1997, § 122-606; Ord. No. 90-01-02, § 1, 3-4-2002)

SECTION 46: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 47: **EFFECTIVE DATE** This Ordinance shall be in effect from and after its passage and publication according to law.

PASSED AND ADOPTED BY THE CITY OF SHEBOYGAN COMMON COUNCIL

_____.

Presiding Officer

Attest

Ryan Sorenson, Mayor, City of
Sheboygan

Meredith DeBruin, City Clerk, City of
Sheboygan