

TOMAHAWK MUNICIPAL CODE

Chapter 30

Environment*

Article I. In General2
 Sections 30-1 – 30-30. Reserved. 2

Article II. Storage of Junk.....2
 Section 30-31. Regulated..... 2
 Section 30-32. Junked, Inoperable or Unlicensed Vehicle Storage..... 2
 Sections 30-33 – 30-60. Reserved. 3

Article III. Open Burning3
 Section 30-61. Restricted..... 3
 Section 30-62. Open Burning Regulations..... 3
 Section 30-63. Prohibition..... 4
 Section 30-64. Extinguishing Dangerous Fires..... 4
 Section 30-65. Liability for Damages. 4
 Section 30-66. Emergency Prohibition. 4
 Section 30-67. Exceptions or variances..... 4
 Sections 30-68 – 30-100. Reserved. 4

Article IV. Nuisances*.....5
 Section 30-101. Prohibited. 5
 Section 30-102. Definitions. 5
 Section 30-103. Nuisances Affecting Health. 5
 Section 30-104. Nuisances Offending Morals and Decency..... 6
 Section 30-105. Nuisances Affecting Peace and Safety..... 7
 Section 30-106. Reserved..... 8
 Section 30-107. Abatement..... 8
 Section 30-108. Cost of Abatement. 8
 Section 30-109. Penalty..... 9

*Cross reference – Animals, Chapter 10; Moving Buildings, § 18-281 et seq.; Floods, Chapter 38; Health and Sanitation, Chapter 42; Manufactured Homes and Trailers, Chapter 58; Parks and Recreation, Chapter 66; Planning, Chapter 74; Solid Waste, Chapter 78; Streets, Sidewalks and Public Places, Chapter 82; Subdivisions, Chapter 86; Utilities, Chapter 98; Zoning, Appendix A.

Article I. In General

Sections 30-1 – 30-30. Reserved.

Article II. Storage of Junk

Section 30-31. Regulated.

- (a) No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, household appliances, furnaces, washing machines, stoves, furniture, machinery, or machinery parts, wood, bricks, cement blocks, or other unsightly debris which depreciates property values in the neighborhood except in an enclosure which houses such property from public view, or upon permit issued by the Common Council. The permits may include but not limited to restorations/project vehicles.
- (b) The building inspector may require by written order any premises violating this section to be put in compliance within the time specified in such order, and if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property. To the extent this section applies to abandoned vehicles, the term of such statute shall also be complied with.

(Code 1989, § 9.09(1))

Section 30-32. Junked, Inoperable or Unlicensed Vehicle Storage.

- (a) No disassembled, inoperable or unlicensed and no junked or wrecked motor vehicles shall be stored or allowed to remain in the open upon public or private property within the city for longer than thirty days unless it is in connection with a vehicle sale or repair business enterprise located in a properly zoned area.
- (b) Whenever the chief of police shall find any such vehicles placed or stored in the open upon public property within the city, he or she shall cause such vehicles to be removed and stored for 30 days, at the end of which time the chief of police shall dispose of such vehicle, unless previously claimed by the owner, subject to conditions of subsection (d) of this section.
- (c) Whenever the chief of police shall find any such vehicles placed or stored in the open upon private property with the city, he or she shall notify the owner of the property upon which vehicles are placed or stored of the intention of such city to remove such vehicles immediately. If such vehicles are not removed within 30 days, the chief of police shall cause vehicles to be removed, the cost of such removal to be charged to the property from which they are removed, which charges shall be entered as a special charge on the tax roll.
- (d) If such vehicles are claimed by the owner, the owner will be charged the removal and storage fee.
- (e) The provisions of this section shall not apply to auto salvage yards and/or junkyards that are duly licensed under the ordinance provisions of the city pertaining to such operations or to restoration/project vehicles holding properly issued city permits.

Sections 30-33 – 30-60. Reserved.

Article III. Open Burning

Section 30-61. Restricted.

No person shall burn leaves, rubbish, debris and dry grass within the city except as provided in this section.

Section 30-62. Open Burning Regulations

1. *Prior approval.*
 - a. Except as provide in 1(b)(i) of this section, all persons shall obtain authorization from the Fire Chief or his designee before any open burning within the limits of the City.
 - b. The following burning shall be permitted without authorization from the Fire Chief:
 - i. Outdoor cooking.
2. *Size of Pile.* The size of the pile to be burned shall not exceed four feet by three feet high.
3. *Location.* The location of the open burning shall be approved by the Fire Chief or his designee and either:
 - a. The pile of material being burned shall be at least 25 feet from any structure, wood or lumber pile, wooden fence, trees or brushes or provisions shall be made to prevent the fire from spreading to within 25 feet of such items; or
 - b. The fire shall be contained in an approved burner located at least 15 feet from any structure, wood or lumber pile, wooden fence, tree or bush.
4. *Material for burning.*
 - a. Fuel for burning shall consist of dry material only and shall not be ignited with flammable or combustible liquids.
 - b. Material for open burning may not include rubbish, garbage trash and any material made of or coated with rubber, plastic, leather or petroleum based materials and may not contain any flammable or combustible liquids.
5. *Supervision.*
 - a. Open burning shall be constantly attended and supervised by a competent person at least 16 years of age until such fire is extinguished.
 - b. The person shall have readily available for use fire extinguishing equipment deemed necessary by the Fire Chief or his designee.
 - c. Any person who burns any material of any kind on his premises shall at all times keep the same under control and shall be responsible for any damage caused by the fire or fire products to any and all property.

TOMAHAWK MUNICIPAL CODE

6. *Other regulations.* Open burning shall also be subject to the administrative rules of the Department of Natural Resources.

Section 30-63. Prohibition.

1. Outdoor burning shall be prohibited when the wind velocity exceeds nine miles per hour or local circumstances make the fire potentially hazardous. Local circumstances include, but not limited to, thermal inversions, ozone alerts and very dry conditions.
2. No person shall burn any leaves or debris of any kind within the limits of the City on any street, alley or such public place.

Section 30-64. Extinguishing Dangerous Fires.

The Fire Chief or his designee, whenever he deems it imprudent to burn any material upon any lands within the City, may forbid any person to set any fire. If any fire has been started or set and is, in the opinion of the Fire Chief or his designee, a hazard or danger to the community, he may order the person responsible for setting the fire upon whose premises the fire exists to promptly extinguish the same. If any person refuses to obey such an order, the Fire Chief or his designee may call the Fire Department to extinguish the fire. Such refusal will result in a citation being issued.

Section 30-65. Liability for Damages.

Any damage caused to another person's property by burning of rubbish, leaves or other debris, whether authorized or not, shall be the responsibility of the person responsible for igniting the same.

Section 30-66. Emergency Prohibition.

At times of extreme dryness or drought or because of a deficiency in the water supply or for reason of any other emergency, the Fire Chief or his designee may prohibit the setting of any fires to burn rubbish, leaves, dry grass or vegetation or other debris upon any lands within the City and shall cause notice to be published in the local media forbidding the igniting of fires during such period as the Fire Chief shall designate in the city.

Section 30-67. Exceptions or variances.

Exceptions or variances to any of the foregoing provisions must be authorized by the Fire Chief or his designee (i.e., all-day burning permit for larger quantity of material at a construction site or highway project.)

Sections 30-68 – 30-100. Reserved.

*Cross reference – Fire Prevention and Protection, Chapter 34.

Article IV. Nuisances*

Section 30-101. Prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city.
(Code 1989, § 10.01)

Section 30-102. 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:

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.
- (2) In any way render the public insecure in life or in the use of property.
- (3) Greatly offend the public morals or decency.
- (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 use of public property.

(Code 1989, § 10.02)

Cross reference – Definitions, Generally, § 1-2.

Section 30-103. Nuisances Affecting Health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be constructed to exclude other health nuisance coming with the definition of Section 30-102:

- (1) *Adulterated Food*. All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) *Unburied Carcasses*. 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.
- (3) *Breeding Places for Vermin*. Accumulation 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.
- (4) *Stagnant Water*. All stagnant water in which mosquitoes, flies or other insects can multiply.

*Cross references – Abatement of Health Nuisances, § 42-1; Public Nuisance Businesses, § 42.3.

TOMAHAWK MUNICIPAL CODE

- (5) *Garbage Cans or Containers* which are not fly-tight and resistant to animal or bird destruction.
- (6) *Noxious Weeds*. All noxious weeds and other rank growth vegetation. All weeds and grass shall be kept cut to a height of not to exceed 6 inches. The city may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof charged to the property under Wisconsin Statute 66.0627.
- (7) *Water Pollution*. 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.
- (8) *Noxious Odors*. Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.
- (9) *Street Pollution*. 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 city.
- (10) *Air Pollution*. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the city limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the city.

(Code 1989, § 10.03)

Section 30-104. Nuisances Offending Morals and Decency.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be constructed to exclude other nuisances offending public morals and decency within the definition of Section 30-102:

- (1) *Disorderly Houses*. All disorderly houses, bawdy houses, houses of ill-fame, gambling houses and buildings or structures kept or resorted to for the purposes of prostitution, promiscuous sexual intercourse or gambling.
- (2) *Gambling Devices*. All gambling devices and slot machines.
- (3) *Unlicensed Sale of Liquor and Beer*. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the city.
- (4) *Continuous Violation of City Ordinances*. Any place or premises within the city where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) *Illegal Drinking*. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state.

(Code 1989, § 10.04)

Section 30-105. 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 coming within the definition of Section 30-102:

- (1) *Signs, Billboards.* 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.
- (2) *Illegal Buildings.* All buildings erected, repaired or altered in violation of the provisions of the ordinances of the city relating to materials and manner of construction of buildings and structures within the city.
- (3) *Unauthorized Traffic Signs.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which is purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (4) *Obstruction of Intersections.* 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.
- (5) *Tree Limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.
- (6) *Dangerous Trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (7) *Fireworks.* All use or display of fireworks except as provided by the laws of the state and ordinances of the city.
- (8) *Dilapidated Buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.
- (9) *Wires and Cables over Streets.* All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- (10) *Obstructions of Streets; Excavations.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city 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, or do not conform to the permit.
- (11) *Unlawful Assemblies.* Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

TOMAHAWK MUNICIPAL CODE

(12) *Operating Hydrants.* Any opening of water hydrants in the city unless authorized by the Board of Public Works director or the Fire Chief.

(13) *Accumulation of Combustible Refuse.* Any accumulation of combustible refuse, waste, weeds, foliage, conifer or other slash in such quantity and under such conditions as to be susceptible to combustion or spreading of fire.

(Code 1989, § 10.05) (Sub 10 revoked Ordinance 2019-04)

Section 30-106. Reserved.

(Revoked by Ordinance 2007-03)

Section 30-107. Abatement.

(a) *Enforcement.* The chief of police, the chief of the fire department, the building inspector and the director of the board of public works shall enforce those provisions of this article that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied him or herself that a nuisance does in fact exist.

(b) *Summary Abatement.* If the inspecting officer shall determine that a public nuisance exists within the city and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the mayor may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) *Abatement after Notice.* 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 or she shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) of this section.

(d) *Other Methods not Excluded.* Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state.

(e) *Court Order.* Except when necessary under subsection (b) of this section, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied; and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

(Code 1989, § 10.07)

Section 30-108. 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 city shall be collected as a debt from the

TOMAHAWK MUNICIPAL CODE

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.
(Code 1989, § 10.08)

Section 30-109. Penalty.

Any person who shall violate any provision of the article or permit or cause a public nuisance shall be subject to a penalty as provided in Section 1-14.
(Code 1989, § 10.09)