

# **TOWN OF FOUNTAIN PRAIRIE ORDINANCE NO. 08-02**

## **CHAPTER 4 - PUBLIC NUISANCE ORDINANCE**

### **SECTION I – TITLE AND PURPOSE**

The title of this ordinance is the Town of Fountain Prairie Public Nuisance Ordinance. The purpose of this ordinance is to regulate for public health and safety reasons public nuisances and certain uses and activities in the Town.

### **SECTION II – AUTHORITY**

The Town Board has the specific authority under ss.29.038, 66.0407, 66.0413, 125.14, 169.01 and 175.25 and chapter 823, WI Statutes and general authority under its village powers under s. 60.22, WI Statutes to adopt this ordinance.

### **SECTION III – ADOPTION OF ORDINANCE**

The Town Board, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town to regulate the storage, treatment, disposal and discharge of certain junk and other items, uses, and activities in the Town.

### **SECTION IV – DEFINITIONS**

- A. “Agricultural use” means any beekeeping, commercial feed lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint, and seed crops, raising of fruits, nuts and berries, sod farming, placing land in federal programs in return for payments in kind, owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836, participating in the milk production termination program under 7 USC 1446 (d) and vegetable raising.
- B. “Appliance” means any household or office device, instrument, utensil, apparatus, or machine that utilizes power, including, but not limited to any stove, clothes washer or dryer, refrigerator, dish washer, freezer, water heater, water pump, furnace, television set, home entertainment device, computer or peripheral device, or other home or office electronic device.
- C. “Building” includes any building or structure or any portion of a building or structure.
- D. “Debris” means any litter, junk, wood, bricks, paper, cement, concrete blocks, or any other unsightly accumulation of items or materials that may tend to depreciate property values in the adjacent or near area, create a blighted condition, present a substantial threat to public health or safety, or create a

public nuisance or a public safety or health hazard, except when such items are determined by the Town Board or Town Committee or other agent of the Town to be stored or housed out of public view and are treated and maintained so as not to be a public nuisance.

- E. "Equipment" means goods used or bought for use primarily in a business, including farming and a profession.
- F. "Hazardous waste" means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under s. 291.05 (2), WI Statutes.
- G. "Junk" means scrap metal, metal alloy, wood, concrete, or synthetic or organic material or any junked, inoperative, unlicensed, or unregistered vehicle, structure, equipment, furniture, appliances or machinery, or any part thereof. "Junk" includes refuse, used tires, parts of dismantled buildings, agricultural use equipment not in usable condition, parts of agricultural use equipment, and contaminated recyclable material.
- H. "Junk vehicle parts" means parts from a junked vehicle.
- I. "Junked" means dismantled for parts or scrapped.
- J. "Junkyard" means any place that is owned, maintained, operated, or used for storing, keeping, processing, buying or selling junk. "Junkyard" includes sanitary landfills, refuse dumps, garbage dumps, automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards and places for temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. "Junkyard" does not include places where litter, trash and other debris are scattered along or upon a highway or temporary operations and outdoor storage of limited duration.
- K. "Local zoning and land use regulation" means any applicable county, town or extraterritorial zoning, subdivision, land division, platting, official map, building code, building permit or other ordinance adopted pursuant to general police powers that is applicable in any manner to the use of land.
- L. "Machinery" means a structure or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means. "Machinery" does not include a building.
- M. "Motor vehicle dealer" has the meaning given in s.218.0101 (23), WI Statutes.
- N. "Motor vehicle salvage dealer" has the meaning given in s. 218.20 (1r), WI Statutes.
- O. "Not registered," in reference to "all-terrain vehicles" as defined in s. 340.01 (2g), WI Statutes. "snowmobiles" as defined in s. 340.01 (58a), WI Statutes or "boats" as defined in s. 29.001(16), WI Statutes means those that are required to, but do not have nor bear any current and valid State of Wisconsin registrations.

- P. "Public nuisance" means a thing, act, occupation, condition, or use of property that continues in the Town for such time so as to do any of the following:
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 attempt 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.
- Q. "Recyclable material" means material that is suitable for recycling.
- R. "Scrap metal processor" means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metal scrap for sale for remelting purposes.
- S. "Solid waste" means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste and other organics, boxes, barrels and other containers, tires, and other like materials, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and any other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, agricultural and community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under chapter 283, WI Statutes, source material as defined in s 254.31 (1), WI Statutes, special nuclear material as defined in s. 254.31 (11), WI Statutes, or by-product material, as defined in s. 254.31 (1), WI Statutes.
- T. "Solid waste facility" means a facility for solid waste treatment, solid waste storage or solid waste disposal and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. "Solid waste facility" includes the land where the facility is located. "Solid waste facility" does not include any of the following:
1. A facility for the processing of scrap iron, steel or nonferrous metal using machinery to produce a principal product of scrap metal for sale or use for remelting purposes.
  2. A facility that uses machinery to sort, grade, compact or bale clean wastepaper, fibers, or plastics, not mixed with other solid waste, for sale or use for recycling purposes.
  3. An auto junkyard or scrap metal salvage yard.
- U. "Town" means the Town of Fountain Prairie, Columbia County, Wisconsin.

- V. "Town Board" means the Board of Supervisors for the Town of Fountain Prairie, Columbia County, Wisconsin and includes designees of the Board authorized to act for the Board, specifically including the Town Clerk and Town Chair.
- W. "Town Chair" means the Chairperson of the Town of Fountain Prairie, Columbia County, Wisconsin.
- X. "Town Clerk" means the Clerk of the Town of Fountain Prairie, Columbia County, Wisconsin.
- Y. "Town Committee" means a committee established by the Town Board to address and aid in regulation of those uses and activities that may cause public nuisance or public health and safety threats in the Town.
- Z. "Unlicensed" or "unregistered" in reference to vehicles, mobile homes or manufactured homes means those that are required to be licensed or registered for operation in the State, but do not have nor bear required current and valid State of Wisconsin licenses or registration.
- ZA. "Vehicle" means every device in, upon, or by which any person or property is or may be transported. "Vehicle" includes, but is not limited to, all of the following:
1. "Aircraft" as defined in s. 29.001 (16), WI Statutes
  2. "All-terrain vehicles" as defined in s. 340.01 (2g), WI Statutes
  3. "Antique vehicles" as described in s. 341.265, WI Statutes
  4. "Automobiles" as defined in s. 340.01 (4), WI Statutes
  5. "Boats" as defined in s. 29.001 (16), WI Statutes
  6. "Camping trailers" as defined in s. 341.01 (6m), WI Statutes
  7. "Farm equipment" as defined in s. 100.47 (1), WI Statutes
  8. "Farm tractors" as defined in s. 340.01 (16), WI Statutes
  9. "Hobbyist or homemade vehicles" as defined in s. 341.268, WI Statutes
  10. "Junk vehicles" as defined in s. 340.01 (25j), WI Statutes
  11. "Implements of husbandry" as defined in s. 340.01 (24), WI Statutes
  12. "Manufactured homes" as defined in s. 101.91 (2), WI Statutes
  13. "Mobil homes" as defined in s. 340.01 (29), WI Statutes
  14. "Mopeds" as defined in s. 340.01 (29m), WI Statutes
  15. "Motor bicycles" as defined in s. 340.01 (30), WI Statutes
  16. "Motor buses" as defined in s. 340.01 (31), WI Statutes
  17. "Motor homes" as defined in s. 340.01 (33m), WI Statutes
  18. "Motor trucks" as defined in s. 340.01 (34), WI Statutes
  19. "Motorcycles" as defined in s. 340.01 (32), WI Statutes
  20. "Railroad trains" as defined in s. 340.01 (48), WI Statutes
  21. "Recreational vehicles" as defined in s. 340.01 (48r), WI Statutes
  22. "Road machinery" as defined in s. 340.01 (52), WI Statutes
  23. "Road tractors" as defined in s. 340.01 (53), WI Statutes
  24. "Salvage vehicles" as defined in s. 340.01 (55g), WI Statutes
  25. "School buses" as defined in s. 340.01 (56), WI Statutes
  26. "Semi trailers" as defined in s. 340.01 (57), WI Statutes
  27. "Snowmobiles" as defined in s. 340.01 (58), WI Statutes
  28. "Special interest vehicles" as defined in s. 341.266, WI Statutes

- 29. "Trailers" as defined in s. 340.01 (71), WI Statutes
- 30. "Truck tractors" as defined in s. 340.01 (73), WI Statutes
- 31. Unlicensed demolition vehicles and unlicensed racing vehicles
- 32. Golf carts, garden tractors, riding lawn mowers and other motorized tractors, motorized carts and motorized utility vehicles that require no registration or licensure by the State of Wisconsin.
- ZB. "Wild Animals" means any animal of a wild nature that is normally found in the wild and that is not a farm-raised deer, a pet bird, a farm-raised game bird or an animal that is listed as a domestic animal by rule by the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection.
- ZC. "WI Statutes" means the Wisconsin Statutes, including successor provisions to cited statutes.

## SECTION V – SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by upper case Roman numerals. Sections may be divided into subsections designated by upper case letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lower case letters. Subdivisions may be divided in subdivision paragraphs designated by lower case Roman numerals. Reference to a "section," "subsection," "paragraph," or subdivision" includes all divisions of the referenced section, subsection, paragraph or subdivision.

## SECTION VI – PUBLIC HEALTH OR SAFETY

No person may create, contrive, erect, maintain, cause, continue, install, construct or permit to exist in the Town a public nuisance associated with, causing, or likely to cause danger, disturbance or injury to the public health or safety. The following acts, uses, activities, things, occupations, places or physical conditions, not properly and timely removed, after written notice to remove from the Town Board to any owner or occupant of the land where the act, use, activity, thing, occupation, place or physical condition exists, is located or occurred or to any person responsible for the creation, maintenance or providing of the act, use, activity, thing, occupation, place or physical condition are specifically declared to be a public nuisance:

- A. **Noxious weed areas.** Any place in the Town where noxious weeds are over one foot high, are located on private or public land and the noxious weeds are not timely cut or removed within seven (7) days after posting or publication of a notice to destroy noxious weeds under s.66.0407 or within seven (7) days after receipt of written notice from the Town Board to remove.
- B. **Unburied animal carcass areas.** Any place in the Town where unburied animal carcasses are located on private or public land and the animal carcasses are not timely removed or discarded, including by timely burial in a sanitary manner, within twenty-four (24) hours 2after receipt of written notice from the Town Board to remove. This paragraph does not apply to any animal or pet cemetery approved in writing by the Town.
- C. **Noxious or polluted or waste areas.** Any place in the Town where noxious, nauseous, unwholesome or polluted water and waste are located on

private or public land, including Town roads, highways, bridges, sidewalks, alleys or other public lands owned or controlled by the Town and those conditions are not timely removed within seven (7) days after receipt of written notice from the Town Board.

- D. **Noxious emission odor areas.** Any place in the Town where noxious odor, stench or gas escapes or is emitted into the open air from sources located on public or private land and these conditions are not timely removed or discontinued within seven (7) days after receipt of written notice from the Town Board. In this subsection, “noxious odor” means an odor that is extremely repulsive to the senses of ordinary persons in the Town that seriously annoys or causes serious discomfort or serious injury to the health or causes serious inconvenience to the health or safety of a significant number of persons within the Town, as determined by the Town Board.
- E. **Rat or vermin areas.** Any place in the Town where rats or other vermin are located or frequent on public or private land and those conditions are not removed or destroyed within seven (7) days after receipt of written notice from the Town Board to remove. Vermin subject to this paragraph include, but are not limited to all of the following:
1. Rats
  2. Mice
  3. Fleas
  4. Lice
  5. Flies
  6. Mosquitoes
  7. Disease carrying insects
- F. **Unauthorized human burial areas.** Any place in the Town where the body of a deceased person or parts of a deceased person are located and buried on private or public land in the Town without written approval of the Town Board and are not timely removed within seven (7) days after receipt of written notice from the Town Board to remove. This paragraph does not apply to any established cemetery or burial site grounds approved, owned and operated in accordance with chapter 157. WI Statutes.
- G. **Hazardous, toxic or solid waste facility or site areas.** Any place or solid waste facility in the Town where the discharge, disposal, storage or treatment of hazardous, toxic or solid waste occurs on private or public lands without approval and licensing or permitting of the discharge, disposal, storage or treatment by all proper federal, state, county and Town governing authorities and full compliance with all applicable laws, rules, regulations or ordinances of the federal, state, county or Town and the activity or condition is not timely removed or discontinued within seven (7) days after receipt of written notice from the Town Board to remove. To constitute a public nuisance under this paragraph, an area, facility or site must threaten or cause serious discomfort or serious injury to the health or cause serious inconvenience to the health or safety of a significant number of persons within the Town as determined by the Town Board.
- H. **Dangerous wild animal areas.** Any place in the Town where live

dangerous wild animals are kept, sold or in any manner controlled or possessed on private or public land without written approval of the Town Board and the animals are not removed or destroyed within seven (7) days after receipt of written notice from the Town Board to remove, unless written approval of the Town Board is obtained within said time. To constitute a dangerous wild animal, under this paragraph, this species of animal must pose a threat to the safety of persons within the Town, including a keeper of the animal, as determined by the Town Board. It is not necessary that the Town Board find that a specific animal is dangerous in order to find a nuisance under this paragraph. For purposes of this ordinance, dangerous wild animals include, but are not limited to all of the following species of animals:

1. All poisonous animals and reptiles including rear-fang snakes
2. Apes: Chimpanzees (Pan); gibbons (Hylobates); gorillas (Gorilla); orangutans (Pongo); and siamangs (Symphalangus)
3. Baboons (Papio, Mandrillus)
4. Bears (Ursidae)
5. Bison (Bison)
6. Cheetahs (Acinonyx jubatus)
7. Crocodilians (Crocodilia), thirty (30) inches in length or more
8. Constrictor snakes
9. Coyotes (Canis Latrans)
10. Deer (Cervidae); includes all members of the deer family; for example, white-tailed deer, elk, antelope and moose
11. Elephants (Elephas and Loxodonta)
12. Ferret
13. Game cocks and other fighting birds
14. Hippopotami (Hippopotamidae)
15. Hyenas (Hyaenidae)
16. Jaguars (Panthera onca)
17. Leopards (Panthera pardus)
18. Lions (Panthera leo)
19. Lynxes (Lynx)
20. Monkeys, old world (Cercopithecidae)
21. Ostriches (Struthio)
22. Pumas (Felis concolor); also known as cougars, mountain lions & panthers
23. Rhinoceroses (Rhinocerotidae)
24. Sharks (class Chondrichthyes)
25. Snow leopards (Panthera uncia)
26. Tigers (Panthera tigris)
27. Wolves (Canis lupus)
28. Poisonous insects

J. **Dangerous or dilapidated building areas.** Any place in the Town where a building or structure, the contents of a building or structure, or any associated electrical, heat, water or sewer system located on public or private lands is so old, dilapidated or out of repair as to be dangerous, unsafe,

unsanitary or otherwise render the building unfit for human habitation are not timely removed or discontinued within seven (7) days after receipt of written notice to remove from the Town Board.

K. **Dangerous tree areas.** Any place in the Town where any trees or the tree's limbs located on private or public lands constitute a dangerous or unsafe condition and these dangerous or unsafe conditions have not been timely removed within seven (7) days after receipt of written notice from the Town Board to remove them.

L. **Fire hazard areas.** Any place in the Town where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored within seven (7) days after receipt of written notice from the Town Board.

M. **Improper encroachment or discharge areas.** Any unauthorized or improper encroachments and discharges, including solid waste, trees, limbs, vehicles, structures, equipment, signs, manure, weeds, crops and other materials on any Town roadway or on other Town public lands without written permission from the Town Board and the improper or unauthorized encroachment or discharge is not timely removed or discontinued within seven (7) days of the receipt of written notice from the Town Board to remove.

N. **Junked vehicle and junk part areas.** Any place in the Town within 500 feet of the center line of any Town highway in the Town or within 750 feet of the center line of any county trunk, state trunk or federal highway where junked vehicles or junk vehicle parts are accumulated or stored or any place in the Town where junked vehicles or junk vehicle parts are accumulated or stored outside of a building for a period exceeding 72 hours if upon public property or for a period exceeding 30 days if upon private property, without obtaining a Junked Vehicle Permit from the Town in accordance with the Town Junk Vehicle Ordinance adopted under s.175.25, WI Statutes, and the Town's village powers under s.60.22, WI Statutes, except when exempt under the terms of the Town Junk Vehicle Ordinance.

O. **Junkyard and junked vehicle, appliance and machinery areas.** Any place in the Town where junked or abandoned vehicles, not otherwise subject to subsections N or P, or junked or abandoned appliances, equipment or machinery are accumulated or stored for a period exceeding 72 hours if upon public property or for a period exceeding 30 days if upon private property and any place otherwise within the definition of junkyard under this ordinance that is not timely removed or discontinued within seven (7) days of receipt of written notice from the Town Board to remove, unless exempt under Section X of this ordinance.

P. **Unlicensed or unregistered vehicle area.** Any place in the Town where for a period exceeding 30 days upon private property a non registered, unlicensed or unregistered vehicle is parked, stored or otherwise kept outside a building without the written permission of the Town Board and is not timely removed or discontinued within seven (7) days of receipt of written notice from the Town Board to remove, unless exempt under Section X of this ordinance.



## SECTION VII – PUBLIC PEACE AND ORDER

No person may create, contrive, erect, maintain, cause, continue, install, construct or permit to exist in the Town a public nuisance associated with, causing or likely to cause potential danger, disturbance or injury to the public peace and order. The following acts, uses, activities, things, occupations, places or physical conditions, not properly and timely removed after written notice from the Town Board to the owner or occupant of the land where the public nuisance occurred or is maintained in the Town, or to any persons responsible for the creation, maintenance or permitting of such nuisance in the Town are specifically declared to be a public nuisance:

- A. **Loud noise areas.** Any place in the Town where any unreasonably loud, discordant and unnecessary sound conditions, including sounds from vehicles, equipment, machinery, guns, fireworks or enclosed domestic or other animals or from any human created or aided sounds, including alleged music, is located on private or public land, without written approval of the Town Board and is not timely removed or discontinued within seven (7) days of written receipt of notice to remove from the Town Board.
- B. **Disorderly conduct area.** Any place in the Town where unpermitted, abusive, indecent, profane or boisterous sounds, unpermitted fighting, brawling or rioting or other unpermitted disorderly conduct conditions are located or occur on private or public lands and these disorderly conditions are not timely removed or discontinued within twenty-four (24) hours of receipt of written notice from the Town Board to remove.

No person may create, continue, erect, maintain, cause, continue, install, construct or permit to exist in the Town a public nuisance associated with, causing or likely to cause danger, disturbance or injury to public morals or decency. The following acts, uses, activities, things, occupations, places or physical conditions not properly and timely removed by the owner or occupant of the land after written notice from the Town Board to the owner or occupant of the land where the public nuisance occurs or to any person responsible for the creation, maintenance or permitting of such nuisance in the Town are specifically declared to be a public nuisance as follows:

- A. **Bawdyhouses.** Pursuant to s.823.09, WI Statutes, whoever erects, establishes, continues, maintains, uses, occupies or leases any building or part of a building, erection or place to be used for the purpose of lewdness, assignation or prostitution, or permits the same to be so used in the Town is guilty of a nuisance and the building, erection or place in or upon which such lewdness, assignation or prostitution is conducted, permitted, carried on, continued or exists and the furniture, fixtures, musical instruments and contents used therewith for the same purpose are declared a nuisance and shall be enjoined and abated.
- B. **Illegal drug houses.** Pursuant to s.823.113(1), WI Statutes, any building or structure that is used to facilitate the delivery, distribution or manufacture, as defined in s.961.01(6), (9) and (13), WI Statutes, respectively of a controlled substance, as defined in s.961.01(4), WI Statutes, or a controlled substance analog, as defined in s.961.01(4m), WI Statutes and any

building or structure where those acts take place is a public nuisance and may be proceeded against under s.823.113, WI Statutes.

- C. **Criminal gang houses.** Pursuant to s.823.113(1), WI Statutes, any building or structure that is used as a meeting place of criminal gang, as defined in s.939.22(9), WI Statutes or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under s.823.113, WI Statutes.
- D. **Gambling houses.** Pursuant to s.823.20, WI Statutes any gambling place as defined in s.945.01 (4) (a), WI Statutes is a public nuisance and may be proceeded against under chapter 823, WI Statutes.
- E. **Illegal alcohol houses.** Pursuant to s.125.14 (5), WI Statutes, any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured or rectified without a valid permit or license issued under chapter 125 or 139, WI Statutes or where persons are permitted to drink alcohol beverages in violation of chapter 125, WI Statutes is a public nuisance and may be closed until the activity in violation of chapter 125, WI Statutes is abated. When the activity is abated, the building or place may be used for any lawful purpose.

#### SECTION IX – ABANDONED VEHICLES, MACHINERY, EQUIPMENT AND APPLICANCES ON PUBLIC LANDS

No person shall leave unattended or stored any vehicle, regardless of the vehicle's physical condition, registration or license held, any appliance, equipment or machinery or parts thereof on any public street, public road, public highway or other public property in the Town, including the road right-of-way, for such time and under such circumstances so as to cause the vehicle, appliance, equipment or machinery to reasonably appear to have been abandoned. When any vehicle, machinery, appliances or equipment has been left unattended, parked or stored on any public street, road, highway or other public property, including a road right-of-way, within the Town for a period of more than 72 hours, the vehicle, structure, machinery, appliances or equipment is presumed by the Town to be abandoned and a public nuisance and may be removed in accordance with s.342.40, WI Statutes and the owner of the vehicle is subject to the imposition of forfeitures under Section XIII of this ordinance. This section does not apply to a railroad train stopped at a railway crossing as defined in s.340.01 (47), WI Statutes.

#### SECTION X – EXEMPTIONS AND PERMITS

- A. **Exemptions.** 1. Any storage of junked vehicles or junked vehicle parts on private lands in the Town that is in conformity with local zoning and land use regulation for which the owners, operators or persons otherwise responsible for the storage of the vehicles or parts have been issued a permit and met the Junked Vehicle Permit requirements, established by the Town Board in the Town Junk Vehicle Ordinance adopted under s.175.25, WI Statutes and the Town's village powers under s.60.22, WI statutes is exempt from the

provisions of Section VI, subsection N, of this ordinance applicable to storage of junked vehicles and junk vehicle parts. The exemption granted under this paragraph is strictly limited to the extent allowed by the permit.

2. Any operation of a junkyard on private lands in the Town that is in conformity with local zoning and land use regulation for which the owners, operators or persons otherwise responsible for the operation of the junkyard have obtained all the proper and necessary federal, state, county, Town and extraterritorial municipal approvals, permits or licenses for the operation or have obtained licenses for operation of a junkyard on that privately owned premise under s.84.31, WI Statutes, is exempt from the provisions Section VI, subsection O, of this ordinance applicable to junked vehicles, junked machinery, junked appliances or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the approvals, permits or licenses.

3. Any commercial motor vehicle salvage or motor vehicle retail sales business on private lands in the Town that is in conformity with local zoning and land use regulation for which the owners, operators or persons otherwise responsible for the conduct of the business hold a current motor vehicle salvage dealer license under s.218.205, WI Statutes, authorizing storage uses, operations and activities at property locations in the Town or hold a current motor vehicle dealer license under s.218.0114, WI Statutes, for salvage, sale or storage operation and activities at a property location in the Town and are actively engaged in the Town as determined in writing by the Town Board, in the commercial motor vehicle salvage or motor vehicle retail sales business on property in the Town is exempt from the provisions Section VI, subsection O of this ordinance applicable to junked vehicles, junked machinery, junked appliances or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.

4. Any business engaged in the retail sales of manufactured homes, mobile homes, camper trailers or recreational vehicles on private lands in the Town that is in conformity with local zoning and land use regulation for which the owners, operator or persons otherwise responsible for the conduct of the business hold a current and valid manufactured home dealers license under s. 101.961, WI Statutes, or a current and valid recreational vehicle dealers license under s.218.12, WI Statutes, issued by the State of Wisconsin and are actively engaged in the Town, as determined in writing by the Town Board, in the business of commercial retail sales of manufactured homes, mobile homes, camper trailers or recreational vehicles on property in the Town is exempt from Section VI, subsection O, of this ordinance applicable to junked vehicles, junked machinery, junked appliances or junked equipment and parts thereof. The exception granted under this paragraph is strictly limited to the extent allowed by the applicable license.

5. Any parking, storage or other keeping outside of buildings in the Town of two (2) or fewer unlicensed or unregistered vehicles or two (2) or fewer boats, snowmobiles or all-terrain vehicles not registered with the State of Wisconsin, on private lands owned or leased by the owner or leaseholder

of the vehicles that is in conformity with local zoning and land use regulation, even if the vehicles are not stored for purposes of sale or repair is exempt from the provisions Section VI, subsection P, of this ordinance relating to the keeping and storage of unlicensed or unregistered vehicles.

6. Any parking, storage or other keeping of any agricultural use vehicles in the open on private lands in the Town that is in conformity with local zoning and land use regulation, by the owner or leaseholder of the land, if the vehicles are and can be used by the owner or landholder, without repair, for normal agricultural use in the Town is exempt from the provisions Section VI, subsection O, of this ordinance applicable to junked vehicles, junked machinery, junked appliances or junked equipment and parts thereof. Notwithstanding anything contained in this paragraph, storage of inoperable junk or other unrepaired agricultural use vehicles on private property of any person for more than thirty (30) days in the open shall be deemed a violation of Section VI, subsection O, of this ordinance unless the storage is at a commercial implement repair location where the equipment or implements can and will be timely repaired and removed from the premise.

**B. Permits.** 1. Upon proper and timely application by an owner or occupant of the premises in the Town to the Town Clerk for a permit and after a public hearing held by the Town Board, the Town Board may permit on public or private lands in the Town with or without conditions and restrictions any of the following:

- a. The storage in the open on private premises of vehicles, structures, machinery, appliances or equipment in the Town that are subject to Section VI of this ordinance.
- b. The maintenance of buildings, structures or dwellings in the Town that are subject to Section VI of this ordinance.
- c. The storage, disposal, treatment or discharge of items, waste, and materials in the Town that are subject to Section VI of this ordinance.

2. A permit under this subsection B may be issued by the Town Board regardless of the ownership or possession rights to the vehicles, implements, machinery, structures, equipment, appliances, buildings, structures, dwellings, items, waste or materials to be stored, maintained, disposed, treated or discharged.

3. The applicant shall be notified of the public hearing required under paragraph 1 at least 20 days before the public hearing by the mailing by U.S. mail of a First Class notice letter to the last known address of the applicant noted on the application.

4. The permit shall be for a specific location, may be established for a term of months or years and may be reissued upon application by the permit holder if the permit holder is in full compliance with this ordinance and with the permit conditions and restrictions as issued.

5. The conditions and restrictions, if any, in the permit established by the Town Board for any permitted storage, maintenance, disposal, treatment or discharge shall be reasonable restrictions and conditions to protect the public health, safety and welfare of persons within the Town and to limit or negate potential

public nuisances caused by the permitted storage, maintenance, disposal, treatment or discharge. The conditions and restrictions shall be stated in writing and attached to the written permit upon issuance by the Town Board.

6. The owner or occupant of the permitted premises is responsible for compliance with the conditions and restrictions in the permit issued regardless of whether the owner or occupant of the premises has any legal or equitable interest in the vehicles, structures, machinery, appliances or equipment subject to the permit.

## SECTION IX – ABATEMENT OF PUBLIC NUISANCES/PERMIT REVOCATION

**A. Inspection of Premises** 1. Whenever a complaint is made to the Town Board, Town Clerk, Town Chair or any appropriate Town committee or agent that a public nuisance under this ordinance or a violation of a permit issued under this ordinance exists within the Town, the Town Chair, Town committee or other agents of the Town Board shall promptly inspect or cause to be inspected the premises complained of and shall make a written report of its findings to the Town Board, which report shall thereafter be filed with the Town Clerk and kept of record in the office of the Town Clerk. Whenever practicable, the Town Chair, Town committee or other agents of the Town Board shall cause photographs to be made of the premises for inclusion in the written report to the Town Board.

2. If the person subject to complaint holds a current permit under this ordinance or any Town Building Permit or Junked Vehicle Permit issued under s.175.25, WI Statutes and the Town's village powers under s.60.22, WI Statutes, the Town Chair, the Town committee or other agents of the Town Board may immediately request the Town Board to hold a public hearing to consider suspension or revocation of the permit for refusal to comply with the permit conditions and this ordinance. The Town Board shall hold a public hearing prior to taking any action to revoke or suspend a permit. The permit holder shall be notified of the public hearing at least 20 days before the public hearing by the mailing by U.S. mail of a First Class notice letter to the last known address of the permit holder noted on the permit or permit application.

3. The Town Board may in the alternative to revocation, suspend any issued permit for a period up to 6 months. Any revocation shall be for a period in excess of 6 months and no reapplication can be received or acted upon by the Town Board for the premises or for the owner or occupant of the premises for any activity, use or item prohibited by or requiring a permit under this ordinance during the revocation period.

4. For any decision regarding the revocation or suspension of any permit, the Town Board shall determine and state the reason or reasons for any revocation, nonrevocation or suspension of the permit based on the lack of compliance with the permit conditions and this ordinance by the permit holder or by any employees or agents of the permit holder. The reason or reasons for the decision shall be stated in writing and sent to the permit holder within 10 days after the decision by the Town Board by mailing by U.S. mail or a first class

letter to the last known address of the permit holder noted on the permit or permit application.

**B. Owner of Premises Responsibility** Any owner or occupant of land in the Town is responsible for compliance with this ordinance on the owner's or occupant's land regardless of ownership of and responsibility for the uses, activities or things located on the land that are subject to this ordinance.

**C. Summary Abatement** 1. *Notice to Owner.* If the Town Chair, Town committee or other agents of the Town Board determine by written notice to the Town Board, that a public nuisance exists under this ordinance within the Town on private or public land and that there is great, immediate and substantial danger or threat to the public health or safety, the Town Board, Town Chair, Town committee or other agents of the Town Board shall serve a written order notice upon the person who is causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is caused, permitted or maintained. If immediate personal service cannot be made, one copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises the person who is causing, permitting or maintaining the public nuisance and one copy of the notice shall be served by mailing by U.S. mail of a first class letter to the last known address for the owner or occupant of the premises. The order notice shall direct the owner or occupant to remove the public nuisance within 24 hours and shall state that unless the public nuisance is so timely abated, the Town may cause, due to the emergency conditions, the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant or person causing, permitting or maintaining the public nuisance.

2. *Abatement by Town.* If the public nuisance is not abated within the time provided in the notice under paragraph 1 or if the owner, occupant or person causing the public nuisance, is known, cannot be found, the Town Chair, the Town committee or other agents of the Town Board with approval of the Town Board, shall cause the abatement or removal of the public nuisance by immediately seeking for the Town a court order that allows for the immediate enjoinder and abatement of the public nuisance.

**D. Abatement by Court Action** If the Town Board determines that a public nuisance exists on public or private premises but that the nature of the nuisance does not threaten great, immediate and substantial danger to the public health or safety, the Town Board shall file a written report or its resolution of its findings with the Town Clerk who shall, after approval and filing of the report or resolution by the Town Board, take one or more of the following actions as directed by the Town Board:

1. Issue and serve a written order to cease and desist the public nuisance upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
2. Issue and serve a citation for violation of this ordinance upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

3. Cause the Town attorney to draft a formal civil complaint to be filed and served upon the alleged violators based upon an alleged violation of this ordinance or the conditions of any permit as issued or have drafted by the Town attorney to be filed and served a formal complaint for abatement of the public nuisance under chapter 823, WI Statutes.

E. **Other Methods Not Excluded** Nothing in this ordinance may be construed as prohibiting the injunction and abatement of public nuisances against any person by the Town or its officials in accordance with the laws of the State of Wisconsin or this ordinance, including against a permit holder that holds a current and valid permit issued by the Town under this ordinance.

## SECTION IXX – COSTS OF ABATEMENT OR DISPOSAL

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance and violation of this ordinance, the cost of abatement of any public nuisance by the Town may be collected under this ordinance or s.823.06, WI Statutes, as a debt or expense from the owner or occupant of the real property for causing, permitting or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the Town to enjoin or abate the public nuisance as a special charge under s.66.0627, WI Statutes unless paid earlier. If any vehicle, structure, equipment, implement or appliance is abandoned or remains unclaimed in violation of this ordinance, the Town Board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under s.66.0139, WI Statutes, by public auction or other means as determined in writing by the Town Board.

## SECTION XIII – ENFORCEMENT PROVISIONS

A. **Penalties** 1. *1<sup>st</sup> Offense.* Any person who violates this ordinance shall, upon conviction, forfeit not less than \$20 nor more than \$500 together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding 90 days.

2. *Second and Subsequent Offenses; Penalty.* Any person guilty of violating this ordinance or person who has previously been convicted of a violation of this ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until said forfeiture and costs of prosecution are paid, but not to exceed 6 months.

B. **Separate Violations** Each day of violation of this ordinance constitutes a separate offense.

SECTION XIV – SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application and to that end, the provisions of this ordinance are severable.

SECTION XV – EFFECTIVE DATE

This ordinance is effective upon publication and adoption by the Town Board.

The Town Clerk shall properly publish this ordinance as required under s.60.80, WI Statutes.

Adopted this thirteen day of November, 2008

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Steven D. Rubert, Chairman

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Carl T. Benck, Supervisor

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Steven R. Jacob, Supervisor

\_\_\_\_\_  
William Gretzinger, Supervisor

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David L. Liebenthal, Supervisor

Attest:

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Linda Henning, Clerk/Treasurer