

**TOWN OF OSCEOLA
POLK COUNTY WISCONSIN**

ORDINANCE NO. 18-01-01

Chapter 10

PUBLIC NUISANCES

Amended 2/11/08 and 5/1/18

NOW THEREFORE, The Town Board of Supervisors of the Town of Osceola does ordain as follows:

10.00 Adoption of ordinance.

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the storage, treatment, disposal, and discharge of certain junk and of other items, uses, and activities in the town.

10.01 PUBLIC NUISANCES PROHIBITED.

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

10.02 DEFINITION.

A public nuisance is 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 the use of public property.
- (5) Substantially diminish property values.

- (6) “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.
- (7) “Building” includes any building or structure or any portion of a building or structure.
- (8) “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 as 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.
- (9) “Equipment” means goods used or bought for use primarily in a business, including farming and a profession.
- (10) “Hazardous waste” means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under s. 291.05 (2), Wis. Stats.
- (11) “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.
- (12) “Junked” means dismantled for parts or scrapped.
- (13) “Junked vehicle parts” means parts from a junked vehicle.
- (14) “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 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.

- (15) “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.
- (16) “Recyclable material” means material that is suitable for recycling.
- (17) “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.
- (18) “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.
- (19) “Town” means the Town of Osceola, Polk County, Wisconsin.
- (20) “Town Board” means the Town Board of Osceola.

10.03 PUBLIC NUISANCES AFFECTING HEALTH.

(A) The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of §10.02, or this section:

(B) 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, things, occupation, 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:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) 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) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.
- (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town limits or within one mile there from in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
- (6) 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.
- (7) Any use of property, substances or things within the Town emitting or causing any foul, offensive noisome, nauseous, noxious or disagreeable odors, gasses 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 Town.

- (8) All abandoned well not securely covered or secured from public use.
- (9) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.
- (10) 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 24 hours after receipt of written notice to remove from the town board. This paragraph does not apply to any established cemetery or burial site grounds approved, owned, and operated in accordance with chapter 157, Wis. Stats.

10.04 PUBLIC 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 construed to exclude other nuisances offending public morals and decency coming within the definition of §10.02, of this section:

- (1) All disorderly houses, bawdy houses, house of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) 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 Town ordinances.
- (3) Any place or premises within the Town where Town Ordinances or State laws relating to public health safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (4) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of Wisconsin or ordinances of the Town.

10.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such

enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of §10.02, of this section:

- (1) 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) All buildings erected, repaired or altered within the fire limits of the Town in violation of the provisions of the ordinances of the Town relating to materials and manner of construction of buildings and structures within the district.
- (3) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any device, signal or sign.
- (4) 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) All limbs of trees which project over and less than 14' above the surface of a public sidewalk or street or less than 10' above any other public place.
- (6) All use or display of fireworks, except as provided by the laws of the State.
- (7) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (8) All wires over streets, alleys or public grounds which are strung less than 15' above the surface.
- (9) All loud, discordant and unnecessary noises or vibrations of any kind.
- (10) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

- (11) All obstructions of streets, alleys, sidewalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length or time after the purpose has been accomplished.
- (12) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (13) All abandoned refrigerators or ice boxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (14) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds or people to gather, obstructing traffic and free use of the streets or sidewalks.
- (15) Repeated or continuous violations of the ordinances of the Town or laws of the State relating to the storage of flammable liquids.

10.06 PUBLIC NUISANCES DIMINISHING PROPERTY VALUES

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting property values, but such enumeration shall not be construed to exclude other nuisances affecting property values coming within the provisions of §10.02, of this section, except as may be allowed by license or permit, or the materials are properly housed and out of public view:

- (1).The accumulation or storage of inoperable or unregistered motor vehicles of any kind, or tires, rims, or any other parts of vehicles, except as allowed by the Polk County, Wisconsin Comprehensive Land Use Ordinance or Wisconsin State Statutes Chapters 340 and 341.
- (2).The accumulation or storage of construction, demolition or landscaping debris including, but not limited to; shingles, cement blocks, bricks, wood, windows, drywall, brush, trees or parts of trees, fencing, or retaining wall materials.
- (3).The accumulation or storage of furniture, household appliances, electronic devices or mechanical equipment including, but not limited to couches, mattresses, refrigerators, washing machines, televisions, computers, furnaces, water softeners or any parts thereof.

- (4).The accumulation or storage of household garbage, refuse or other discarded personal or household items.
- (5).The accumulation or storage of any other vehicles, solid waste, hazardous wastes, recyclable materials, debris, junk,or materials that are deemed by the Town Board to diminish property values.
- (6).No person shall leave unattended or stored any vehicle, regardless of the vehicle's physical condition, registration, or licensed 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 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, Wis. Stats., and the owner of vehicle is subject to the imposition of forfeitures. This section does not apply to a railroad train stopped at a railway crossing as defined in s. 340.01 (47), Wis. Stats.
- (7).Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.

10.7 ABATEMENT OF PUBLIC NUISANCES.

- (1) INSPECTION OF PREMISES. When a complaint is made or the Chairman or his/her representative deems that a property is in violation, the Chairman or his/her designated representative shall cause the premises to be inspected and report to the full Board, for final determination of compliance or non-compliance.
- (2) SUMMARY ABATEMENT.
 - (a) Notice to Owner. The Owner is defined as the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises upon which the nuisance is caused, permitted or maintained. If the Town Chairman or his representative determines that a public nuisance exists, the following procedure will be followed:
 - (i). For nuisances deemed a great and immediate danger to the public health, safety, peace, morals or decency, the Town Chairman can

cause to have the nuisance immediately abated by any legal means necessary. The Owner shall be notified of the nuisance and abatement as quickly as possible.

- (ii). For nuisances not deemed a great and immediate threat, the Owner shall be notified of the violation via certified letter, which shall describe the violation in detail, including supporting documentation such as photographs; specifically describe abatement procedures in detail. Included with the letter shall be a copy of the Town's Public Nuisances ordinance.
- (iii). If the nuisance is not abated within 60 days of notification the Owner will be notified of failure to comply via certified letter that includes the contents of the initial certified letter; formal notification of failure to comply; and the consequences of not complying, including a citation, potential abatement costs being charged to the Owner and/or possible court action. Extension of abatement may be extended at the discretion of the Town Board.
- (iv). If the nuisance is not abated as directed in the certified letter, the Owner shall be issued a citation for non-compliance and the Town shall cause an action to abate such nuisance.

(3) OTHER METHODS NOT EXCLUDED. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of Wisconsin.

10.8 COST OF ABATEMENT.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and if notice to abate the nuisance has been given to the owner, the cost shall be assessed against the real estate as a special charge.

10.9 PENALTY. (Am. Res. #15-94)

Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to the penalties as provided in the Town of Osceola Ordinance List/Fee-Bond Schedule.

10.10 Effective Date of Ordinance

Passed this 1st Day of May, 2018

By the Town Board of the Town of Osceola

Doug Schmidt, Chairman

Mike Wallis, Supervisor

Dan Burch, Supervisor

ATTEST:

Lorraine Rugroden, Clerk-Treasurer

____ Voice Vote
____ Roll Call Vote
____ Yeas; ____ Nays; ____ Absent/Abstain