

ORDINANCE 2014 - 03
Public Nuisance Ordinance

- To Regulate Public Nuisances in the Town of Sumner-

THE TOWN BOARD OF THE TOWN OF SUMNER, BARRON COUNTY, WISCONSIN,
HEREBY ORDAINS AS FOLLOWS:

Section One: That the following Ordinance shall be adopted:

§ I - TITLE AND PURPOSE

The title of this ordinance is the Town of Sumner Public Nuisance Ordinance. The Purpose of this ordinance is to regulate, for public health, welfare, and safety reasons, public nuisances and certain uses and activities in the town.

§ II - AUTHORITY

The town board has the specific authority under §§ 29.038, 66.0407, 66.0413, 125.14, 169.01, and 175.25, and chapter 823, Wis. stats., and general authority under its village powers under §60.22, Wis. stats., to adopt this ordinance.

§ 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.

§ 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, dishwasher, freezer, microwave, 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, garbage, 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 or liquid substance considered toxic or hazardous under any federal, state or local regulation.

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 for less than 10 days.

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 §218.0101(23), Wis. stats.

N. *Motor vehicle salvage dealer* has the meaning given in §218.20(1r), Wis. stats.

O. *Not registered* in reference to all-terrain vehicles as defined in § 340.01(2g) , Wis. stats., snowmobiles as defined in §340.01(58a), Wis. stats., or boats as defined in §29.001(16), Wis. stats., means those that are able to be registered, 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](#), Wis. stats., source material, as defined in [§254.31 \(1\)](#), Wis. stats., special nuclear material as defined in [§254.31 \(11\)](#), Wis. stats., or by-product material, as defined in [§254.31\(1\)](#), Wis. stats.

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 re-melting 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 Sumner, Barron County, Wisconsin.

V. *Town Board* means the board of supervisors for the Town of Sumner, Barron 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 Sumner, Barron County, Wisconsin.

X. *Town Clerk* means the Clerk of the Town of Sumner, Barron 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 able to be licensed or registered for operation in the state, but do not have nor bear current and valid State of Wisconsin licenses or registration.

AA. *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 [§29.001 \(16\)](#), Wis. stats.
- 2) *All-terrain vehicles (ATV)* as defined in [§340.01 \(2g\)](#), Wis. stats., or *Utility Terrain Vehicles (UTV)* as defined in [§23.33](#), Wis. Stats.
- 3) *Antique vehicles* as described in [§341.265](#), Wis. stats.
- 4) *Automobiles* as defined in [§340.01 \(4\)](#), Wis. stats.
- 5) *Boats* as defined in [§29.001 \(16\)](#), Wis. stats.
- 6) *Camping trailers* as defined in [§340.01 \(6m\)](#), Wis. stats.

- 7) *Farm equipment* as defined in §100.47 (1), Wis. stats.
 - 8) *Farm tractors* as defined in §340.01 (16), Wis. stats.
 - 9) *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.
 - 10) *Hobbyist or homemade vehicles* as defined in §341.268, Wis. stats
 - 11) *Junk vehicles* as defined in s. 340.01 (25j), Wis. stats.
 - 12) *Implements of husbandry* as defined in s. 340.01 (24), Wis. stats.
 - 13) *Manufactured homes* as defined in s. 101.91 (2), Wis. stats
 - 14) *Mobile homes* as defined in §340.01 (29), Wis. stats
 - 15) *Mopeds* as defined in §340.01 (29m), Wis. stats.
 - 16) *Motor bicycles* as defined in §340.01 (30), Wis. stats.
 - 17) *Motor buses* as defined in §340.01 (31), Wis. stats.
 - 18) *Motor homes* as defined in §340.01 (33m), Wis. stats.
 - 19) *Motor trucks* as defined in §340.01 (34), Wis. stats.
 - 20) *Motorcycles* as defined in §340.01 (32), Wis. stats.
 - 21) *Neighborhood Electric Vehicle* as defined in §340.01(36r), Wis stats.
 - 22) *Railroad trains* as defined in §340.01 (48), Wis. stats.
 - 23) *Recreational vehicles* as defined in §340.01 (48r), Wis. stats.
 - 24) *Road machinery* as defined in §340.01 (52), Wis. stats.
 - 25) *Road tractors* as defined in §340.01 (53), Wis. stats.
 - 26) *Salvage vehicles* as defined in §340.01 (55g), Wis. stats.
 - 27) *School buses* as defined in §340.01 (56), Wis. stats.
 - 28) *Semi trailers* as defined in §340.01 (57), Wis. stats.
 - 29) *Snowmobiles* as defined in §340.01 (58), Wis. stats.
 - 30) *Special interest vehicles* as defined in §341.266, Wis. stats.
 - 31) *Trailers* as defined in §340.01 (71), Wis. stats.
 - 32) *Truck tractors* as defined in §340.01 (73), Wis. stats.
 - 33) *Unlicensed demolition vehicles and unlicensed racing vehicles.*
- BB. *Wild animal* 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.
- CC. *Wis. stats.* means the Wisconsin Statutes, including successor provisions to cited statutes.

§ 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 into 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.

§ 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 2 weeks after posting or publication of a notice to destroy noxious weeds as described in §66.0407 or within 1 week after receipt of written notice to remove from the town board.

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 48 hours after receipt of written notice to remove from the town board.

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 48 hours 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 48 hours after receipt of written notice to remove 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 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 2 weeks after receipt of written notice to remove from the town board. Vermin subject to this paragraph include, but are not limited to, all of the following

- 1) Rats
- 2) Mice
- 3) Skunks

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 10 days 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.](#)

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 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:

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 2 weeks after receipt of written notice to remove from the town board unless written approval of the town board is obtained within said time. To constitute a dangerous wild animal, under this paragraph, the 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.

I. 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 unfit for human habitation, and the conditions that are dangerous, unsafe, unsanitary, or otherwise render the building unfit for human habitation are not timely removed or discontinued within 60 days of receipt of written notice to remove from the town board.

J. 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 7 days after receipt of written notice to remove from the town board.

K. Fire hazard areas. Any place in the town where combustible materials (as determined by local fire authorities) are located and stored on private or public lands and the materials are not timely removed or safely stored within 3 days after receipt of written notice from the town board.

L. 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 7 days of the receipt of written notice to remove from the town board.

M. Junked vehicle and junk part areas. Any place in the town 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 §175.25, Wis. stats., and the town's village powers under §60.22, Wis. Stats if the Town has adopted such an ordinance.

N. Debris. Any place in the town where debris is accumulated or stored or any place in the town where debris removed or discontinued within 10 days after receipt of written notice to remove from the town board. 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 persons within the town, as determined by the town board.

O. Junkyard and junked vehicle, appliance, and machinery areas. Any place in the town where junked or abandoned vehicles, not otherwise subject to subsections M 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 7 days of receipt of written notice to remove from the town board, unless exempt under this ordinance.

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

§ 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 to remove 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 immediately upon 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 immediately upon receipt of written notice to remove from the town board.

§ VIII - PUBLIC MORALS OR DECENCY

No person may create, continue, erect, maintain, cause, 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 to remove 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, accumulates or is stored outside of a building, or without fencing or appropriate screening for a period exceeding 72 hours if upon public property, or for a period exceeding 30 days if upon private property, without obtaining a Permit from the town.

A. Bawdyhouses. Pursuant to §823.09, Wis. stats., 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 §823.113 (1), Wis. stats., any building or structure that is used to facilitate the delivery, distribution, or manufacture, as defined in §961.01 (6), (9), and (13), Wis. stats., respectively, of a controlled substance, as defined in §961.01 (4), Wis. stats., or a controlled substance analog, as defined in §961.01 (4m), Wis. stats., and any building or structure where those acts take place, is a public nuisance and may be proceeded against under §823.113, Wis. stats.

C. Criminal gang houses. Pursuant to §823.113 (1), Wis. stats., any building or structure that is used as a meeting place of a criminal gang, as defined in §939.22 (9), Wis. stats., or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under §823.113, Wis. stats.

D. Gambling houses. Pursuant to §823.20, Wis. stats., any gambling place, as defined in §945.01 (4) (a), Wis. stats., is a public nuisance and may be proceeded against under chapter 823, Wis. stats.

E. Illegal alcohol houses. Pursuant to §125.14 (5), Wis. stats., 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, Wis. stats., or where persons are permitted to drink alcohol beverages in violation of chapter 125, Wis. stats., is a public nuisance and may be closed until the activity in violation of chapter 125, Wis. stats., is abated. When the activity is abated, the building or place may be used for any lawful purpose.

§ IX - ABANDONED VEHICLES, MACHINERY, EQUIPMENT, AND APPLIANCES 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 §342.40 or 66.0139, Wis. stats., and the owner of the vehicle is subject to the imposition of forfeitures under Section XII of this ordinance. This section does not apply to a railroad train stopped at a railway crossing as defined

in §340.01 (47), Wis. stats. maintenance, or permitting of such nuisance in the town, is specifically declared to be a public nuisance. stats., is a public nuisance and may be closed until the activity in violation of chapter 125, Wis. stats., is abated. When the activity is abated, the building or place may be used for any lawful purpose.

§ X - ABATEMENT OF PUBLIC NUISANCES/PERMIT REVOCATION.

A. Inspection of Premises.

1) Whenever a written, signed 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 this ordinance exists within the town, the town chair, town committee, or other agents of the town board shall either determine the complaint does not have merit, or promptly inspect or cause to be inspected the premises complained about 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. Refusal by the owner or occupant of the premises complained of to allow the inspection called for in this Paragraph is grounds for seeking an inspection warrant.

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 is subject to this ordinance.

C. Summary Abatement.

1) *Notice to Owner.* If the town board or its designee 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, if 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. Action by Town Board.

Except in the case of an emergency as described in C above, the town chair or supervisor, the town committee or other agents of the town board may immediately request the town board to hold a public hearing to consider requiring compliance with this ordinance. The town board shall hold a public hearing prior to taking any action. The owner or occupant shall be notified of the public hearing at least 15 days before the public hearing by First Class U.S. Mail to the last known address of the owner or occupant. The owner or occupant shall have the right to be heard and respond to the complaint at the public hearing.

2) The town board may use discretion in allowing a timeline of compliance, not to exceed 6 months before imposing the fines/penalties.

3) For any decision regarding actions to be taken for non-compliance of this ordinance, the reason or reasons for the decision shall be stated in writing and sent to the owner or occupant within 10 days after the decision by the town board by First Class US Mail to the last known address of the owner/occupant.

E. 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) Cause an authorized town agent to 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](#), Wis. stats.

F. Citations

Notwithstanding any other abatement action available, the town board may authorize the town chair or other designee to issue citations for violations of this ordinance in accord with the Town of Sumner citation ordinance if the Town has enacted such an ordinance

G. 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.

§ XI - 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 §823.06, Wis. stats., 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 and the nuisance has not been abated within any time period specified in the notice and no extension of that time period has been granted, any costs incurred by the town to enjoin or abate the public nuisance will be invoiced and sent to the property owner. If such costs are not paid within thirty days of the date of the invoice, those costs may be assessed against the real property as a special charge for services rendered pursuant to Wis. Stats. §66.0627. 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 §66.0139, Wis. stats., by public auction or other means as determined in writing by the town board

§ XII - ENFORCEMENT PROVISIONS.

A. Penalties

Subsequent Offenses; Penalty. Any person guilty of violating this ordinance or any person who has previously been convicted of a violation of this ordinance shall, upon conviction, forfeit the amount of \$250 for each offense, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be assessed against the real estate as a special charge.

B. Separate Violations.

Upon conviction, each day of continued violation of this ordinance constitutes a separate offense.

§ XII – 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.

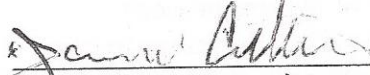
Section Two: That this Ordinance shall take effect upon its adoption and publication as required by law. That this section not be codified.

The town clerk shall properly post or publish this ordinance as required under §60.80, Wis. stats.

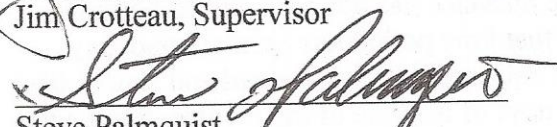
Following passage by the Town Board, this Ordinance shall take effect the day after the date of publication or posting as provided by Wis. Stat. § 60.80.

ADOPTED this 5th day of August, 2014
by a vote of 2 yes, 0 no.

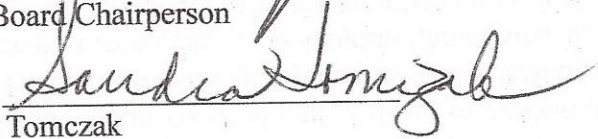
Joe Grilley, Supervisor

* 

Jim Crotteau, Supervisor



Steve Palmquist
Town Board Chairperson

Attest: 

Sandra Tomczak
Town Clerk