

PUBLIC NUISANCE AND JUNK ORDINANCE

WHEREAS, the Town Board of the Town of Nepeuskun deems it in the public interest and welfare to establish regulations prohibiting public nuisances and the collection of junk as defined herein; and

WHEREAS, the Town finds it necessary to exercise its police powers as authorized by Section 60.22 of the Wisconsin Statutes;

NOW, THEREFORE, the Town Board of the Town of Nepeuskun, Winnebago County, Wisconsin, does ordain as follows:

SECTION 1 APPLICABILITY

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance including a collection of junk within the Town of Nepeuskun.

SECTION 2 DEFINITIONS

1. Public Nuisance—General. A public nuisance is a thing, act, occupation, condition or use of property, activity or action of a person, group of persons or other legal entity which exists and continues for such a length of time as to: (a) substantially annoy, injure, or endanger the comfort, health, repose or safety of the public; (b) in any way render the public insecure in life or in the use of property; (c) unreasonably offend the public morals or decency; (d) unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any roadway, navigable body of water or other public way or the use of public property.
2. Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of subsection (1) of this section:
 - a. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
 - b. 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 twenty-four (24) hours after death of such animal, bird or fowl.
 - c. Accumulation of decayed animals, wood, trash, rubbish, scrap metal, construction materials, demolition materials, tires, nonfunctional equipment, or any material whatsoever in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.

- d. All animals running at large including but not limited to dogs, cats, chickens, sheep, goats, geese, pigs, and cattle. "Running at Large" for purposes of this ordinance shall include an animal which is not on a leash or confined to an enclosed area.
 - e. The escape of soot, cinders, noxious acids, fumes, gases, fly ash, dust or other atmospheric pollutants or particulates from the premises of the party generating the particulates into public areas or other private areas within the Town 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.
 - f. The pollution of any public or private well, stream, marsh, ditch, canal or other body of water by sewage, animal waste, industrial wastes or other harmful substances.
 - g. Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or substances offensive to the physical senses of an ordinary person possessed with ordinary tastes and susceptibilities or which otherwise does annoy, discomfort, injure or inconvenience the health of persons within the Town. This definition shall not apply to odors produced through the normal farming practices.
 - h. All abandoned wells, septic tanks, and cisterns not securely covered or not closed pursuant to applicable state law in order to prevent contamination or serious injury.
3. 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 subsection (1) of this section:
- a. All loud, discordant and unnecessary noises or vibrations of any kind that continue over a substantial period of time.
 - b. The keeping or harboring of any animal, bird or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall unreasonably annoy or disturb neighbors or other residents of the Town. This is intended to cover among other animals dogs that are penned up, tied up or kenneled that cause noise for more than an hour several times in a single day or repetitively for multiple days.
 - c. The keeping of ice shanties, semi-trailers, outdoor privies, storage units (such as Pods), and other similar items for extended periods of time (more than 30 days) in public view, such as may create a hazard or may tend to depreciate the property value in the area, 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 of time after the purpose thereof has been accomplished. Violations of this provision shall not occur with regard to improvements or personal property which may be visible during the winter months but is otherwise screened by foliage during the balance of the year unless in the

opinion of the Town Board the items do create a significant hazard or depreciation of property value.

- d. All open and unguarded pits, wells, excavations or unused basements accessible by the public, or even by a trespassing individual. This does not include naturally occurring waterways or ponds or artificial ponds that would not normally present a hazard because they are not deep enough or are located in or as part of a garden.
- e. All obstructions of roadways or walkways 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 of time after the purpose thereof has been accomplished.
- f. Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery (including unused or inoperable farm equipment) or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a hazard.
- g. Any unauthorized or unlawful use of property abutting on a public roadway, road right of way or sidewalk which causes people to gather so as to obstruct traffic and free use of the roadway, sidewalks or dedicated right of ways.
- h. Any parking of any type of vehicle, trailer, or container within the road right of way.
- i. Any parking of any type of vehicle whether registered or not, trailer, or container within the front yard setback except on a legally installed hard surfaced driveway for a period of more than twenty-four (24) hours.
- j. The burning of trash, rubbish, furniture or any other materials that the burning of which is prohibited by the Wisconsin Department of Natural Resources. "Rubbish" includes but is not limited to waste materials and refuse of every character and kind collected and/or accumulated.
- k. All owners of property located within the Town who fail to keep their premises free of litter, debris, trash or rubbish shall be in violation of this subsection.

SECTION 3 ABATEMENT OF PUBLIC NUISANCES

1. Inspection of Premises. Whenever a complaint is made to a member of the Town Board that a public nuisance exists within the Town, the Town Board or its designee shall inspect, or cause to be inspected, the premises complained of, but only if the complaining party is willing to identify him or herself and, upon reasonable request, is willing to put the complaint in writing. The investigation of all complaints shall be done in a timely manner considering the nature of the complaint and the availability of Town Board members. For purposes of this ordinance, Town Board members may individually, or as a group, inspect an area without providing public notice. It is understood that the Town Board is prohibited from

taking any action with regard to the nuisance or formulating any decision with regard to the nuisance, until the Town Board meets in open session to discuss their observations and the input of others including the claimants and the owner of the property.

2. Notice to Owner. If the Town Board determines that a public nuisance exists within the Town, it shall provide notice to the person causing, permitting or maintaining such public nuisance or the owner or occupant of the premises where such nuisance exists. It should be provided that the notice shall be in writing delivered either personally or mailed to the owner of the property on which the nuisance exists and if different from the owner a copy of the notice shall also be mailed to the person causing, permitting or maintaining the nuisance. The purpose of the requirement of written notice is to assure that notice is actually received. The notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant to abate or remove such nuisance within three (3) days. The notice shall also state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
3. Abatement by Town. If the nuisance is not abated within the time provided, or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of such public nuisance in whatever means the Town shall determine are reasonable and in accordance with the laws of the State of Wisconsin.
4. Abatement by Court Action. If the Town shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, the Town may cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Winnebago County.
5. Other Methods Not Excluded. Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

SECTION 4 COSTS OF ABATEMENT

1. Costs. In addition to any other penalty imposed, any and all costs incurred by the Town, including but not limited to costs related to the abatement of the nuisance, court costs, legal fees, and similar expenses, will be assessed against the party causing, permitting or maintaining the nuisance or the owner or occupant of the premises where such nuisance exists, and collected in accordance with all applicable provisions of Wisconsin law, including the right to assess a lien against the real estate.

SECTION 5 PENALTIES

1. Penalties. Any person who violates any provision of this ordinance or any order, rule or regulation made hereunder shall, upon conviction, be fined not less than \$150.00, nor more than \$1,000.00 for each offense that the person has been found guilty of, together with the

costs of prosecution, including reasonable attorneys fees incurred by the Town. After conviction, the court shall order a daily penalty for each day that a violation continues to exist. Furthermore, the Town shall be permitted to withhold the issuance of licenses, authorities, grants or permits until the nuisance has been abated and all penalties and costs satisfied.

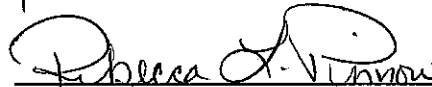
**SECTION 6
INTERPRETATION AND SEVERABILITY**

1. Interpretation. The provisions of this ordinance are not intended to supersede or modify provisions of existing Zoning Ordinances or other rules, regulations and ordinances adopted by the Town. Where the provisions of this ordinance impose greater restrictions than any statute, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.
2. Severability. It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be invalid.

This ordinance was approved by a unanimous vote of the Town of Nepeuskun Town Board.

3 Ayes and 0 Nays.

Dated this 21st day of February, 2011.



Rebecca Pinnow, Town Clerk

Attest:



Ron Bahn, Town Chairman

Adopted this 23 day of February, 2011.

Published this 3rd day of March, 2011.