

PUBLIC NUISANCE ORDINANCE
TOWN OF MERRIMAC
ORDINANCE NO. 98-01

10.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Merrimac.

10.02 "INSPECTION AUTHORITY" DEFINED. The terms Inspection Authority or Inspecting Authority as used in this Ordinance refer to the Town Chairman or Town official designated by the Town Chairman, acting on behalf of the Town Board.

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

10.04 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 definition of sec. 10.03 of this chapter:

(1) DILAPIDATED BUILDINGS, WALLS AND FOUNDATIONS. All buildings, walls, foundations, or similar structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(2) NOISY ANIMALS OR FOUL. 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.

(3) OPEN PITS, BASEMENTS, ETC. All open and unguarded pits, wells, excavations and basements.

(4) FENCES, STRUCTURES, AND OTHER OBJECTS IN HIGHWAY RIGHT-OF-WAY. The encroachment upon, under or over any highway right-of-way by any fence, stand, building or any other structure or object, and including encroachments caused by acquisition by the town of new or increased widths of highway right-of-way.

(5) ABANDONED MOBILE HOMES. Any mobile home left unattended on any public highway or private or public property, for such time and under such circumstances as to cause the mobile home to reasonably appear to have been abandoned. A mobile home is deemed abandoned and constitutes a nuisance whenever it has been left unattended without the permission of the property owner for more than 48 hours. [See s.342.40, Wisconsin Statutes 1995-96.] As used in this section, the terms "mobile home" mean that which is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances. [See 66.058(1)(d), Wisconsin Statutes 1995-96.]

10.05 JUNK, CERTAIN VEHICLES, RECREATIONAL EQUIPMENT AND FIREWOOD.

(1) PUBLIC NUISANCES DECLARED. The following are hereby declared to be public nuisances wherever they may be found within the Town.

- (a) Any motor vehicle, truck body, tractor or trailer as enumerated in sub. (3) and (4) below and defined in sub. (2) (a), (b) and (c) below.
- (b) Any junk stored contrary to sub. (5) below.
- (c) Any recreational equipment stored contrary to sub. (6) below.
- (d) Any firewood used or stored contrary to sub. (7) below.

(2) DEFINITIONS. The following words, phrases and terms used in this section shall be interpreted as follows:

- (a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.
 - (b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.
 - (c) Motor Vehicles. As defined in S. 340.01(35), Wis. Stats.
 - (d) Junk. Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment, including recreational equipment, or parts thereof, vehicles or parts thereof, tools, discarded building materials, or any other unsightly debris, the accumulation of which has an adverse effect upon neighborhood or Town property values, health, safety or general welfare.
 - (e) Recreational Equipment. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.
 - (f) In the Open. Land which may be viewed from public streets or adjoining property.
- (3) STORAGE OF INOPERABLE VEHICLES, ETC.
- (a) Restricted. No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open upon any public or private property in the Town for a period exceeding 72 hours.
 - (b) Exceptions.
 1. Any business engaged in automotive sales or repair located in a properly zoned district may retain no more than 3 disassembled or wrecked vehicles in the open for a period not to exceed 30 days, after which such vehicles shall be removed.
 2. Properly licensed junk yards.

(4) STORAGE OF UNLICENSED VEHICLES, ETC.

- (a) Restricted. No person shall accumulate, store or allow any unlicensed motor vehicle, truck body, tractor or trailer in the open upon any public or private property in the Town for a period exceeding 72 hours.
- (b) Exceptions.
 - 1. Any business engaged in the sale, repair or storage of such unlicensed vehicles in a properly zoned district.

(5) STORAGE OF JUNK PROHIBITED. No person, except a licensed junk dealer shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the Town.

(6) STORAGE OF RECREATIONAL EQUIPMENT REGULATED.

- (a) No person shall store any recreational equipment on any street right of way for a period of more than 48 hours.
- (b) No person shall accumulate, store or allow any recreational equipment in the open upon any public or private property in the Town for a period exceeding 72 hours, unless such recreational equipment is in compliance with all registration, identification, and registration display requirements for such recreational equipment provided by Wisconsin State Statute or Wisconsin Administrative Rule. [For e.g. snowmobiles are subject to the registration requirements and decal display requirements set forth in s.350.12, Wis. Stats.].

(7) STORAGE OF FIREWOOD.

- (a) Regulated. No person shall store firewood on any residential premises except for use on the premises.

10.06 EXCEPTION FOR CERTAIN AGRICULTURAL USES AND PRACTICES.

(1) An “agricultural use” or an “agricultural practice”, as hereinafter defined, is not a nuisance under this Ordinance if all of the following apply:

- (a) The agricultural use or agricultural practice alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agricultural use without substantial interruption before the person affected thereby began the use of property that said person alleges was interfered with by the agricultural use or agricultural practice.
 - (b) The agricultural use or agricultural practice does not present a substantial threat to public health or safety.
- (2) Paragraph (1) applies without regard to whether a change in agricultural use or agricultural practice is alleged to have contributed to the nuisance.
- (3) DEFINITIONS. In this section:
- (a) “Agricultural practice” means any activity associated with an agricultural use.
 - (b) “Agricultural use” has the meaning given in s.91.05(1), Wisconsin Statutes 1995-96, and as the same may hereafter from time to time be amended, renumbered, or recreated.

10.07 ENFORCEMENT; ABATEMENT OF PUBLIC NUISANCES.

(1) ENFORCEMENT. It shall be the duty of the Inspection Authority to make such periodic inspections and inspections upon complaint as the Inspection Authority deems reasonably necessary to ensure that the provisions of this Ordinance are not violated. No action shall be taken or commenced under this action to abate a public nuisance and/or to impose a forfeiture unless the Inspection Authority shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does in fact exist.

(2) NOTICE TO OWNER OR OCCUPANT; ACTION FOR CIVIL FORFEITURE. Whenever the Inspection Authority shall find any nuisance as defined herein within the Town, the Inspection Authority shall notify the owner or occupant of said property on which said nuisance is located of the violation of this Ordinance. If such nuisance is not removed within 10 days, the Inspection Authority shall report such fact to the Town Board who may direct the Town attorney to commence an action in Circuit Court for the abatement of the nuisance and/or for the imposition of a forfeiture or forfeitures.

(3) SUMMARY ABATEMENT OF NUISANCES OF GREAT AND IMMEDIATE DANGER.

- (a) Notice to Owner. If the Inspecting Authority shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Inspection Authority may serve notice on the persons causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance, or the owner or occupant of the premises where such nuisance is caused, permitted or maintained, to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the costs thereof to the owner, occupant and/or person causing, permitting or maintaining the nuisance, as the case may be.
- (b) 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 Inspecting Authority shall cause the abatement or removal of such public nuisance.

(4) 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 the State, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture in accordance with the laws of the State of Wisconsin.

(5) COST OF ABATEMENT. In addition to any other penalty imposed by this Ordinance 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. If the charge is not paid within 30 days of the date of billing, an additional administrative collection charge of 10 percent of the charge shall be added to the amount due, plus interest shall accrue thereon at the rate of 1 percent per month until paid and if notice to abate the nuisance has been given to the owner of the property where the nuisance occurred, such charge shall be extended upon the current or next tax roll as a charge for current services.

10.08 PENALTY. Any person, corporation, partnership, or other legal entity who shall be adjudicated to have violated any of the provisions of this Ordinance shall be subject to a forfeiture of not less than \$10 nor more than \$200, plus the costs of said prosecution, and upon default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation of this Ordinance continues shall be deemed a separate offense.