

**Town of Port Edwards**

**Defining and Prohibiting Public Nuisances Ordinance**

Whereas, it is in the interests of the public that certain nuisances be defined as public nuisances.

Whereas, the Town Board of the Town of Port Edwards has power under Village Powers pursuant to Section 60.22(3) of the Wisconsin State Statutes, to enact ordinances defining and prohibiting public nuisances.

Now therefore, the Town Board of the Town of Port Edwards, Wood County, Wisconsin, does hereby ordain as follows:

**Section 1. Public Nuisances Prohibited**

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Town of Port Edwards, Wood County, Wisconsin.

**Section 2. Definitions**

**Subsection 2.1. Public Nuisance**

A public nuisance is an object, act, occupation, condition or use of property, which shall continue for a length of time such 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 use of property.
- C. Greatly offend the public morals or decency.
- D. 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.
- E. Any condition or use of premises or of building diminution in the value of other property in the neighborhood in which such premises are located.

**Subsection 2.2. Public Nuisances Affecting Health**

The following acts, omissions, places, and conditions, and objects are hereby specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances or hazards coming within the definition of subsection 2.1 of this section:

**Subsection 2.2 continued**

- 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 an appropriate sanitary manner within 24 hours after death of such animal, bird or fowl.
- C. Accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires, or any other material whatsoever in which flies, mosquitos, disease carrying insects, rats, or other vermin may breed.
- D. All abandoned wells not securely covered or secured from public use.
- E. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, or any waterway of public place within the Town of Port Edwards.

**Subsection 2.3. Public Nuisances Affecting Peace and Safety**

The following acts, omissions, places, conditions, and objects are hereby declared to be public nuisances affecting peace and safety; however, such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provision of subsection 2.1 of this section:

- A. All wells, excavations, or unused basements freely accessible from any town road.
- B. 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 of people to gather, obstructing traffic and free use of the streets or sidewalks.

**Subsection 2.4. Public Nuisances-Other**

The following acts, omissions, places, conditions, and objects are hereby specifically declared to be public nuisances offending the comfort, health, repose or safety of the Town of Port Edwards; but such enumeration shall not be construed or exclude other nuisances within the definition of subsection 2.1 of this section:

- A. All owners of property located within the Town of Port Edwards who fails to keep their premises free of litter, debris, trash, or rubbish shall be in violation of this subsection.
- B. All property owners within the Town of Port Edwards who allow their property to accumulate trash, litter or rubbish, shall be considered to be in violation of this subsection.
- C. "Litter" as used in ordinances includes, but is not limited to, trash and wastepaper lying scattered about; and an untidy accumulation of objects of any kind.
- D. Noises or odors emanating from a property that substantially interfere with the surrounding land owners' use and enjoyment of their property.

- E. All animals running at large.
- F. "Trash" as used in this ordinance includes, but is not limited to, something or object(s) worth little or nothing, or something or object(s) in a crumpled or inoperable condition.
- G. "Rubbish" as used in this ordinance includes, but is not limited to, waste materials and refuse of every character and kind collected and/or accumulated.

### **Section 3. Junk Vehicles**

#### **Subsection 3.1. Junk, ETC., Vehicles Prohibited**

Except as otherwise indicated in this ordinance, no person or persons, association, partnership, firm or corporation, who owns or has authority over, or authority to control, more than 10 wrecked, or partially dismantled, or disabled motor vehicles, or parts of such vehicles, or motor vehicle truck bodies, tractors or trailers, or recreational vehicles which do not bear and display lawful license plates or have current registration shall allow such a vehicle, or such parts, to be stored out of doors on any real estate located within the Town of Port Edwards, either temporarily, irregularly, or continually for more than 60 days in a calendar year.

#### **Subsection 3.2. Definitions**

- A. "Wrecked or disabled motor vehicles" are motor vehicles in such physical or mechanical condition as to be incapable of self-propulsion when same is ordered to be moved, or, if capable of self-propulsion when ordered to be moved cannot lawfully be operated in its then existing condition upon public streets.
- B. "Motor Vehicles" includes motorcycles, ATV's, UTV's, cars, vans, trucks, snowmobiles, semi-trailers, motor homes, buses, or any other vehicles customarily operated on a public street and may or may not be required to be licensed by the State of Wisconsin.
- C. "Unlicensed" refers to motor vehicles, truck bodies, tractors or trailers, which do not bear lawful license plates or have a current vehicle registration.
- D. "Recreational Vehicles" includes motor vehicles or trailers equipped with living space and amenities found in a home.
- E. Control Defined-the right to exercise a directing or governing influence over a thing, place, or object.

### **Subsection 3.3. Penalties**

See ordinance violation fee schedule as published in the Town of Port Edwards Citation Ordinance #2022-2.

### **Subsection 3.4. Exemptions**

Upon request, the Town Board may exempt the following commercial businesses from this ordinance by issuing an exemption permit, subject to the conditions as set forth below:

- A. Motor vehicle repair facilities
- B. Antique or restoration businesses
- C. Property being temporarily used by a person transporting motor vehicles
- D. Property being used by collectors for special interest vehicles who purchase or sell parts of said vehicles in compliance with Section 341.266 of the Wisconsin Statutes
- E. Salvage Yards
- F. Any person or persons, association, partnership, firm or corporation using property in accordance with a license under subchapter (1) Chapter 218, Wisconsin Statutes "Mobile Home Dealers"
- G. Any businesses that fall under the definition of paragraphs A, B, C, D, and F, above that have received a qualified exemption permit, as to any such wrecked, disabled, partially dismantled or unlicensed motor vehicles, truck bodies, tractors or trailers, or recreational vehicles will be required to remove from their property any nonconforming motor vehicle, truck body, tractor or trailer, with 10 days of their receipt of same. The business may apply to the Town Board for a 30-day extension by demonstrating due diligence and reasonable cause as to why the nonconforming item cannot be repaired or otherwise disposed of within the initial 10 days. The purpose of this provision is to not allow junked vehicles, etc., as defined above to remain on property within the political boundaries of the Town of Port Edwards for an indefinite period of time without a plan in place *for the repair, removal, or other disposition* of said items. Any business so affected will apply for a Qualified Exemption Permit according to the terms set forth in Subsection 3.5, and subject to the terms for disposition as set forth above.

### **Subsection 3.5 Application for an Exemption Permit**

Any party seeking an Exemption Permit must apply in writing to the Town Clerk. Such application shall contain the name of the person seeking the exemption, the property for which the exemption is being sought, and the statement as to why the applicant believes he/she qualifies for an exemption. The Town Clerk shall report the application to the Town Board who will inspect, or cause to be inspected, the premises requesting the exemption to determine if the case is proper for an exemption.

### **Subsection 3.5.(a) Exemption Agreement**

Prior to an Exemption Permit being granted, the Town Board and the party applying will sign a written agreement concerning said exemption. The agreement will contain a description of the property, the name and the address of the party applying for the exemption, a statement as to what the exemption being granted is, and appended thereto and included therein rules, regulations, and conditions which the Town Board requires to be followed in order for the party to maintain the exemption. Such agreement shall be filed with the Town Clerk and open to public inspection.

### **Subsection 3.5.(b) Exemption Duration**

A party receiving an exemption under Section 3.5 and Section 3.5.(a), shall hold the exemption as long as the property is being used in accordance with the terms indicated in the written agreement between the party and the Town Board. Upon complaints being made in writing by a Town of Port Edwards resident to the Town Board that a party has violated a provision of the written agreement, the Town Board shall summon the holder of the discretionary exemption to appear before them for the purpose of reviewing the complaint. The Town Board will notify the exemption holder of the substance of the complaint and the time set aside for review of the matter by forwarding a notice of same to the exemption holder. Said review date shall not be less than ten (10) days after the date of the mailing of the notice. The Town Board shall proceed to review the matter upon the date specified in the notice, and if the Town Board finds the allegations of said complaint are correct, the Town Board may either set conditions to be met by the exemption holder to abate the cause of the complaint, or may, in its discretion, treat the property where the junk vehicles, or parts thereof are located as not exempt from the provisions of this ordinance.

## **Section 4. Abatement of Public Nuisances**

### **1. Enforcement**

- a. Members of the Town Board and the Building Inspector shall enforce those provisions of this Ordinance that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself or herself that a nuisance does in fact exist.

### **2. Summary Abatement**

- a. If the inspecting official determines that a public nuisance exists within the Town and that there is a great and immediate danger to the public health, safety, peace, morals, or decency, the Chairperson may direct the proper officer to serve a notice on the owner, or, if the owner cannot be located, an occupant or person causing, permitting or maintaining such nuisance and post a copy of the

notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting, or maintaining such nuisance to abate or remove such nuisance or appear at the next Town Board meeting with a clean-up plan, and that unless such nuisance is so abated, the Town will cause the same to be abated.

- b. If a nuisance under this subsection is not abated within the time provided, Chairperson may direct the proper officer to ensure the same be abated by immediately seeking for the Town a court order that allows for the immediate enjoinder and abatement of the public nuisance, and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

### 3. Abatement by Court Action

- a. If the inspecting official determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals, or decency, he or she shall serve notice on the person causing or maintaining the nuisance, whether an owner or occupant of the premises where such nuisance is caused, permitted or maintained, with an order to cease and desist the public nuisance. If immediate personal service cannot be made, a copy of such notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant thereof, as well as mailed to the last known owner of said property.
- b. After having served notice on the person causing or maintaining the nuisance, whether an owner or occupant of the premises, the Town Board may authorize the issuance and service of a citation upon the person causing, permitting or maintaining the public nuisance for violation of this Ordinance.
- c. If, after enforcement by citation, the public nuisance continues to exist on a premises, the Town Board may cause the Town attorney to draft a formal complaint for abatement of the public nuisance under Chapter 823, Wis. Stats.

### 4. Other Methods Not Excluded

Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Port Edwards, or its officials in accordance with the laws of the State of Wisconsin.

## **Section 5. Costs 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 abatement of any public nuisance by the Town shall be collected as a debt from the owner, occupant, or person causing, permitting or maintaining the nuisance. If notice to abate the nuisance has been given to the

owner previously, such cost shall be assessed against the real property where such violation occurred as a special charge unless paid earlier.

#### **Section 6. Enforcement Provisions**

1. Each day of violation of this ordinance shall constitute a separate offense.
2. This Ordinance may be enforced by the citation procedure as authorized by Ordinance No. 2022-2, Town of Port Edwards ordinance relating to issuance of citations for violations of Town ordinances, or its successor.

#### **Section 7. Enforcement**

The Town Chairman or Town Supervisors and such other Town representative as may be designated by the Town Board is hereby authorized to enforce this ordinance, and to issue citations for violations of this ordinance pursuant to applicable state statutes.

Upon the issuance and service of a citation for an alleged violation of this ordinance, the defendant may be required to appear at an initial appearance before a Wood County Circuit Court Judge.

#### **Section 8: Severability**

##### **Subsection 8.1 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 provision of this ordinance shall prevail. Where the provision of any statute, other regulations, ordinance or covenant, impose greater restrictions than the provisions of this ordinance, the provision of such statute, other regulations, ordinance or covenant prevail.

##### **Subsection 8.2 Severability**

It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by the 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.

#### **Section 9: Effective Date**

This ordinance shall take effect upon its publication or posting as provided by law.

**Section 10: Authorizing Signatures:** Passed, approved, and adopted by the Town Board of the Town of Port Edwards, Wood County, Wisconsin, on the 13<sup>th</sup> day of June, 2022.

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Randy Moody-Town Chairman

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Tim Schmidt-Town Supervisor

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H. Jeffrey O'Donnell-Town Supervisor

Filed this 13<sup>th</sup> day of June, 2022

Michelle Sorenson, Town Clerk