

10.01 TITLE

This ordinance is entitled the "Public Nuisance Ordinance."

10.02 AUTHORITY

The Town Board has the specific statutory authority powers and duties, pursuant to Sec. 66.052, (1991-1992) Wis. Stats., and Chapters 143, 144, 146 and 823, (1991-1992) Wis. Stats., pursuant to the specific statutory sections noted in this ordinance and/or by its adoption of village powers under Sec. 60.10, (1991-1992) Wis. Stats., to regulate, control, prevent and enforce against in the Town certain uses, activities, businesses and operations by persons that may cause a public nuisance in the Town.

10.03 ADOPTION OF ORDINANCE

The Town Board has, by adoption of this ordinance, confirmed the specific statutory authority, powers and duties noted in the specific sections of this ordinance and has established by these sections and this ordinance, regulations, controls and enforcement against certain uses, activities, businesses and operations by person that may cause a public nuisance in the Town.

10.04 PUBLIC NUISANCES PROHIBITED

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

10.05 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 and 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.

10.06 PUBLIC NUISANCES AFFECTING HEALTH

No person shall cause, allow or permit any person to create any public nuisance areas on premises owned, leased or controlled by that person or allow the following acts, omissions, places, conditions and things in the Town. The following are specifically declared by the Town Board to be public health nuisances. This declaration should not be construed to exclude other public nuisances affecting public health in the Town.

- (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 twenty four (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) Privy vaults and garbage cans which are not fly tight.
- (6) 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 (1) mile therefrom 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.
- (7) 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.
- (8) Any use of property, substances or things within the Town emitting or causing any foul, offensive noisome, nauseous, noxious or disagreeable odors, gases effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of persons within the Town.
- (9) All abandoned wells not securely covered or secured from public use.
- (10) 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.

(11) A rat harborage area where rats or other vermin can live and breed.

(12) A noxious weed area where these noxious weeds are allowed to exceed one (1) foot.

(13) A dangerous building area where the building, structure, place, or the electrical, heat, or water supply is in a condition and location to cause a menace or danger to the public health of persons in the Town.

(14) A hazardous waste area where the discharge, disposal, storage, or treatment of hazardous, nuclear or toxic waste are allowed to accumulate to the substantial annoyance or substantial discomfort of persons or are allowed to cause injury to persons or property in the Town.

10.07 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 Sec. 10.05 of this Chapter.

(1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purposes of prostitution, promiscuous sexual behavior or gambling.

(2) All gambling devices and slot machines.

(3) 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 the ordinances of the Town.

(4) 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.

(5) 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.

10.08 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 provision of Sec. 10.05 of this Chapter:

(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 are less than fifteen (15) feet above the surface of a public sidewalk or street or less than ten (10) feet above any other public place.

(6) All use or display of fireworks, except as provided by laws of the state of Wisconsin.

(7) All buildings or structures so old dilapidated or out of repair as to be dangerous, unsafe, unsanitary, uninhabitable or otherwise unfit for human use and occupancy.

(8) All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface.

(9) All loud, discordant and unnecessary noises and sounds of motor vehicles, animals or music repulsive to the senses of ordinary persons which are allowed to continue to the substantial annoyance or substantial discomfort of persons or cause injury to persons or property in the Town.

(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 annoy or disturb a neighborhood or any person living or working within the Town.

(11) All obstructions of streets, alleys, sidewalks and all excavations in or under the same, except as permitted by 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 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 or interior.

(14) All 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.

(15) To allow trash, debris, old lumber, furniture, freezers, stoves, refrigerators, or waste to accumulate in unsheltered areas on the premises for more than seven (7) consecutive days.

(16) To allow combustible rubbish, paper, oily rags, petroleum products or other highly flammable materials to be improperly secured and/or improperly stored in any building on the premises.

10.09 ACCUMULATION OF JUNK, DEBRIS, ETC. PROHIBITED

(Recreated 9/28/2006)

(1) **Nuisances Prohibited**

(a) The accumulation or storage of vehicles, motor vehicles, automobiles or parts thereof, trucks, tractors, snowmobiles, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, junk of any type, wood, brick, cement block, or any other unsightly debris such as may tend to depreciate property values in the area or create an attractive nuisance or hazard, or any nuisance, is prohibited on any lot or parcel of land in the Town except as may be allowed by permit issued by the Town Board, unless such materials are properly housed and out of public view.

(b) Maintenance of dumpsters or similar receptacles for the collection, storage or removal of waste, debris, garbage, or other property for disposal or waste storage shall not remain on any residential property, as zoned, in the Town of Randall for a

period of more than ten (10) days without first obtaining a written waiver from the Town Clerk of the Town of Randall. Written waivers of up to ten (10) working days may be granted by the Town Clerk only in instances of hardship or in furtherance of reducing accumulation as described in paragraph (1)(a) of this section of the ordinances of the Town of Randall. Violation of this provision is deemed a public nuisance in violation of this chapter of the ordinances, subject to abatement and penalties provided herein.

(2) **Abatement Order**

When the person who owns and or is in charge of any property is in violation of this section, the Building Inspector or any Town Enforcement Officer shall have the authority to order the premises cleaned, placed in order and made sightly and brought into compliance with this section within ten (10) days from the date of order and as specified in the order.

(3) **Penalty of Violation**

If the premises are not cleaned, placed in order, made sightly and brought in compliance with this section within the time so specified in the order, the person in charge of said property shall be considered in violation of the provisions of this chapter and penalized as provided in Section 25.04 of the Code of Ordinances.

10.10 STORAGE OF INOPERABLE OR ABANDONED MOTOR VEHICLES ON PUBLIC OR PRIVATE PROPERTY

(1) **Applicability**

The provisions of this section shall apply to all vehicles which are located on either public or private property which vehicles are inoperative, abandoned, junked or otherwise in such condition as to be deemed to be nuisance vehicles as defined herein.

(2) **Definitions**

(a) "Vehicle" or "Vehicles" means any mobile home, moped, motor bicycle, motor bus, motorcycle, motor-driven cycle, motor home, motor truck, automobile, trailer, boat trailer, camping trailer, recreational vehicle or any other vehicle in, upon or by which any person or property is or may be transported or drawn upon a highway or upon private property, as defined in Ch. 340 (1991-1992) Wis. Stats., as may be amended from time to time.

(b) "Owner" or "Owners" means the individual owner or owners of the vehicle in question or the owner, tenant or occupant of the premises upon which a vehicle is located.

(c) "Nuisance vehicle" means an inoperable, unlicensed, unroadworthy, disassembled, wrecked, stripped of parts, or junked vehicle, or any other vehicle not in compliance with Ch. 341, Ch. 342 and Ch. 347 of the Wis. Stats., and Wis. Admin. Code Ch. MVD 5 as may be amended from time to time. A vehicle for which a license application has been made is deemed a licensed vehicle if proof of application is prominently displayed on the front windshield. Indication of a nuisance vehicle may include, but shall not be limited by enumeration, to the following:

1. A vehicle without a window or windows.
2. A vehicle with broken windows.
3. A vehicle with flat tires.
4. A vehicle without a motor, if it is a vehicle as defined in Ch. 340 of the Wis. Stats., or as that chapter may, from time to time, be amended.
5. A vehicle with one or more wheels not installed.
6. A vehicle lacking one or more structural parts such as fenders, hood, or bumpers.
7. A vehicle, which has been stored outside on the same parcel within the Town of Randall for thirty (30) days or more and which at the request of the Ordinance Enforcement Officer, cannot be started.

(Created 11/30/2006)

(3) **Prohibition**

(a) It shall be unlawful for any person, party, firm or corporation to keep, place or store any "nuisance vehicle" outside of a garage or enclosed structure unless said placement or storage is in conjunction with a duly authorized and licensed auto sales, repair or salvage business complying with local zoning ordinances and all other state and local laws, ordinances, rules, regulations, licenses and permits.

(b) Any such violation shall be deemed to be a public nuisance involving a nuisance vehicle, and the owner shall be responsible for the abatement thereof.

(4) **Ten-Day Notice Required**

(a) Whenever the Building Inspector or Town Enforcement Officer shall find any nuisance vehicle placed or stored in violation of this ordinance within the Town of Randall, he or she shall attach a warning notification sticker, of a form approved by the Town Board, to the vehicle in a prominent place. The Building Inspector or Town Enforcement Officer shall prepare written notice to the property owner and to the vehicle owner, if he or she can be found, and to the occupants or tenants of the property, if they can be found, to correct the violation. The officer shall make not less than two attempts to serve the notice either by certified mail or by personal service to the person named on the notice or to a responsible person of at least sixteen (16) years of age residing at the residence of the person named in the notice if the residence is within the Town of Randall. If service is not accomplished by any of these methods, the notification sticker affixed to the vehicle shall be deemed to be sufficient notice.

(b) In the event that said vehicle is not removed within ten (10) days of notice, the Building Inspector or Town Enforcement Officer shall have the vehicle removed to the nearest available salvage yard or approved storage facility and the cost of removal shall be paid jointly and severally by the owner or occupant of the property upon which the vehicle had been placed or stored and by the owner or owners of the vehicle. *(Recreated 11/30/2006)*

(c) In the event said vehicle is not claimed within ten (10) days after being placed in storage, it may be sold in accordance with the provisions of subsection (6) below relating to abandoned motor vehicles.

(5) **Abandoned Motor Vehicles Prohibited - Removal and Disposal Thereof**

(a) No person shall abandon or leave unattended any motor vehicle, trailer, semi-trailer, motor home, mobile home or other vehicles as defined in Ch. 340 of the Wis. Stats., as may be amended from time to time, on any public highway or public or private property for such time, and under such circumstances, that the vehicle reasonably appears to have been abandoned. Any vehicle that has been left unattended on private property without the permission of the property owner for more than twenty-four hours within the Town of Randall shall be deemed abandoned, except that a motor vehicle on private property shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when, after investigation by the Building Inspector

or Town Enforcement Officer, the vehicle has been designated as not abandoned.

(b) Any vehicle in violation of this section or of subsection (a) above shall be deemed a public nuisance and shall be impounded until lawfully claimed or disposed of as hereinafter set forth, except that if the Building Inspector or Town Enforcement Officer determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the Town of Randall prior to the expiration of the impoundment period upon determination by the Sheriff of Kenosha County, or any other law enforcement official having jurisdiction, that the vehicle is not stolen or otherwise wanted for evidence or for any other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be disposed of in accordance with Sec. 10.10(6) of this Code.

(c) Any vehicle which shall be deemed abandoned and not otherwise disposed of shall be retained in storage for a minimum period of ten (10) days after notice by certified mail or personal service has been sent to the owner and any lien holder of record to permit reclamation of said vehicle after payment of all accrued charges. Said notice shall contain the following information:

1. Year, make, model and serial number of the vehicle.
2. Place where the vehicle is being held.
3. That failure of the owner or lien holders to exercise the right of reclamation under this section shall be deemed a waiver of all right, title and interest in said vehicle and consent to the sale of the vehicle.

(6) **Sale of Abandoned Vehicles**

(a) In the event that the vehicle is not reclaimed by an owner or lien holder, the Town shall dispose of the vehicle by sealed bid, and the Town shall accept the highest bid for any such abandoned motor vehicle, always provided that, if said bid is deemed inadequate by the Chairperson of the Town Board or by a duly authorized Town representative, all bids may be rejected. In the event that bids are rejected, or no bid shall be received, the Town Chairperson or duly authorized Town representative may, at his or her discretion, order the vehicle re-advertised for bid opening at a date certain or sell the motor vehicle at a private sale or as a junk motor vehicle. Notice of sealed bids shall

be by advertising as a Class 1 notice (Chapter 985, (1991-1992) Wis. Stats.) and by posting in not less than three (3) places throughout the Town of Randall, in the same manner as ordinances and resolutions are posted. Notices of sale shall be in the same form as the certified mail notice sent to the owner or lien holders of record. Upon sale of said abandoned vehicle, the Town Clerk shall supply the purchaser with a completed form designated by the Motor Vehicle Division of the Department of Transportation enabling the purchaser to obtain a regular certificate of title for said vehicle. The purchaser shall have ten (10) days to remove said vehicle from the storage area and shall pay such charges for storage as may be established by the Town or the owner of the premises to which the abandoned vehicle shall be removed, for each day that said vehicle remains in storage after the second business day subsequent to the sale. Ten (10) days after said sale, the purchaser shall forfeit all interest in the vehicle, and the vehicle shall be deemed abandoned and may be sold again by the same procedure as set forth in this ordinance. Sales may be to any interested person and any listing of vehicles to be sold by the Town shall be made available to any interested person or organization which makes written request for such list to the Town Clerk and upon the payment of a fee of one dollar (\$1.00) for each such list.

(b) Within five (5) days after the sale or disposal of an abandoned vehicle, as provided in this ordinance, the Town Clerk shall advise the Motor Vehicle Division of the sale or disposition on a form supplied by the Motor Vehicle Division.

(c) Upon the sale of said vehicle, the proceeds thereof shall be used to pay the cost of towing and impoundment, the cost of notification and advertising, and such other cost as may be incidental to disposing of said vehicle. The excess thereof shall be held by the Town Treasurer for reclamation by the owner upon filing a proper claim therefore and paying all fines or forfeitures that may be imposed for violation of this ordinance or any other ordinance, and in the event that the proceeds from said sale are not sufficient to pay the cost of towing, impoundment, advertising and related costs, the Town may recover any deficiencies in a civil action against the owner of said abandoned vehicle.

10.11 ABATEMENT OF PUBLIC NUISANCES

(1) Inspection of Premises

Whenever a complaint is made to the Town Chairperson or other public official of the Town that a public nuisance exists

within the Town, he/she shall promptly notify the Building Inspector or any Town Enforcement Officer who shall inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Town Chairperson. Whenever practical, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

(2) **Summary Abatement**

(a) Notice to Owner

If the inspecting officer 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 Town Chairperson may direct the Town Enforcement Officer to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises from which the nuisance is caused, permitted or maintained and to post a copy of the notice on the premises. Such notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove the nuisance within twenty four (24) hours and shall state that unless the nuisance is so abated, the Town will cause the same to be abated and will charge the cost to the owner, occupant, 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 Town Enforcement Officer shall cause the abatement or removal of the public nuisance.

(3) **Abatement by Court Action**

If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of the nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he/she shall file a written report of his/her findings with the Town Chairperson who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Kenosha County in accordance with the provisions of Chapter 823, (1991-1992) Wis. Stats.

(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 Wisconsin.

10.12 ABATEMENT OF PUBLIC NUISANCES/EXTERIOR SURFACES *(Created 1/2007)*

The exterior of the structure shall be maintained in accordance with the following or otherwise constitute a public nuisance within the meaning of these ordinances.

(1) **Exterior Walls, Surfaces and Repairs.**

All exterior walls and surfaces, including, but not limited to, decorative features and overhang extensions, doors, door and window frames, cornices, porches and trim, shall be maintained in good repair. All exterior surfaces shall be free from decay, missing parts, serious cracking, irregularities, and peeling, flaking and chipped paint. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective weather resistant and watertight.

(2) **Structural Members**

All structural members shall be maintained structurally sound, in good repair, and be capable of safely supporting the imposed loads.

(3) **Foundation Walls**

All foundation walls shall be maintained structurally sound, plumb and free from open cracks and breaks, in good repair, and shall be kept in such condition so as to prevent the entry of rodents.

(4) **Exterior Walls**

All exterior walls shall be maintained structurally sound, free from holes, breaks, loose or rotting materials, in good repair, and maintained weatherproof.

(5) **Roofs and Drainage**

The roof and flashing shall be maintained structurally sound, tight and not have defects that admit water. The roof coverings shall be in good repair, free from wear and tear, storm damage and missing components. All repairs shall be made to closely match the type and color of the existing roof. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains,

gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

(6) **Decorative Features**

All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition. Any missing parts shall be replaced with matching parts.

(7) **Overhang Extensions**

All canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained structurally sound and in good repair with proper anchorage.

(8) **Stairways, Decks, Porches, Ramps and Balconies**

Every exterior stairway, deck, porch, ramp, and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Any new or replacement stairways, decks, porches, ramps and balconies shall be installed in accordance with the requirements of Chapters Comm. 20 - 25 of the Wisconsin Administrative Code.

(9) **Chimneys, Towers and Antennas**

All chimneys, cooling towers, smokestacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(10) **Sanitary Conditions**

The responsible person shall maintain the common areas of their premises in a clean, safe and sanitary condition. A person shall not occupy a premises, or permit another person to occupy a premises, which does not comply with the requirements of this Code. Occupants (including owner occupants and tenants) of a premises shall be responsible for caring for and maintaining in a clean, safe, and sanitary condition that part of the premises, which they occupy and control. All responsible persons and occupants (including owner occupants and tenants) shall be jointly and severally responsible for securing compliance of their premises with this Code.

(11) **Windows**

Windows shall be free from cracks and holes. Windows must be made of glass or rigid plastic. Windows shall not be boarded for more than thirty (30) days.

10.13 COST OF ABATEMENT

(Renumber 1/2007)

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.

10.14 PENALTY

(Renumber 1/2007)

Except as otherwise provided, any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as provided in Section 25.04, of this Code of Ordinances.