

TOWN OF SCOTT

PUBLIC NUISANCE ORDINANCE

STATE OF WISCONSIN

Town of Scott
Burnett County

SECTION I – TITLE AND PURPOSE

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

SECTION II – AUTHORITY

The town board has the specific authority under ss. 29.038, 66.0407, 66.0413, 125.14, 169.01, and 175.25, and chapter 823, 947 Wis. stats., and general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance.

SECTION III - ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the storage, treatment, disposal, and discharge of certain junk and of other items, uses, and activities in the town.

SECTION IV – DEFINITIONS

All definitions can be defined in the Wisconsin Code Chapter 823. Nuisances, 823.01 Jurisdiction over nuisances.

SECTION V – 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:

Public nuisances shall include, but not be limited to:

1. Any use that causes the air or environment to become noxious or offensive.
2. Any use that unduly promotes the breeding of flies, mosquitoes, or other insects.
3. Any use that unduly promotes a harborage or breeding place for rodents or other animals.
4. The accumulation or deposit of refuse, trash, wood products, furniture, metal items, junk, construction materials or other materials to such an extent as to cause blight. However, nothing in this chapter shall prohibit reasonable storage of construction materials during the construction of any structure.
5. All junked, disassembled, inoperable or wrecked motor vehicles, or parts thereof, which have been allowed to remain outside of any building upon public or private property for a period in excess of thirty days, unless located in a zoning district where such use is permitted.
6. All trees, hedges, poster boards or other obstructions that prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or

pedestrian crosswalk. All trees, hedges, shrubbery or branches that obstruct or impede pedestrian or other lawful traffic on sidewalks.

7. All signs, billboards, awnings, and similar structures over or near streets, sidewalks or public places situated or constructed in a manner that endangers public safety.
8. All buildings or structures erected, repaired, or altered within the Town in violation of County ordinances relating to materials and manner of construction of such buildings or structures.
9. Repeated or continuous violations of this code.
10. Disorderly conduct as specified in Wisconsin s. 9.47.01.

C. ABATEMENT OF PUBLIC NUISANCES

1. If it is determined that a public nuisance exists that poses an immediate danger to the public health or safety, an employee of the Town of Scott, or appropriate notice from the Town Board, order the owner or occupant of the property to remove or abate the nuisance within such time determined to be reasonable under the circumstances.

If the owner or occupant cannot be contacted, such orders may be posted in a visible location on the property involved. If such owner or occupant fails or refuses to comply with such order, the employee shall order the removal or abatement of the nuisance and the cost thereof shall be charged to the property and shall be entered on the next tax roll as a special tax on the property.

2. If it is determined that a public nuisance exists that does not pose an immediate danger to the public health or safety, an employee of the Town of Scott or appropriate Town Board Member shall serve an order upon the owner or occupant of the property to remove or abate the nuisance within such time determined to be reasonable under the circumstances.

If the owner or occupant cannot be served after reasonable attempt, such orders may be posted in a visible location on the property involved. The order shall also notify the owner or occupant that any person aggrieved shall, within 15 days of the service or posting of the order, apply to the circuit court for an order restraining the Township and the inspecting employee from entering on the premises and abating or removing the nuisance, or be forever barred.

The court shall determine the reasonableness of the order for the abatement of the nuisance. If such owner or occupant fails or refuses to comply with such order and fails to restrain the Township and the inspecting employee, the employee shall order the removal or abatement of the nuisance and the cost thereof shall be charged to the property and shall be entered on the next tax roll as a special tax on the property. Such costs shall be in addition to any other enforcement actions taken under this code.

D. 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 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 s. 342.40, Wis. stats., and the owner of the vehicle is subject to the imposition of forfeitures under Section XIII of this ordinance. This section does not apply to a railroad train stopped at a railway crossing as defined in s. 340.01 (47), Wis. stats.

E. EXEMPTIONS AND PERMITS

A. Exemptions. 1. Any storage of junked vehicles or junked vehicle parts on private lands in the town that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the storage of the vehicles or parts have been issued a permit and met the Junked Vehicle Permit requirements established by the town board in the Town Junked Vehicle Ordinance adopted under s. 175.25, Wis. stats., and the town's village

powers under s. 60.22, Wis. stats., is exempt from the provisions of Section VI, subsection N, applicable to storage of junked vehicles and junked vehicle parts. The exemption granted under this paragraph is strictly limited to the extent allowed by the permit. **

ABATEMENT OF PUBLIC NUISANCES/PERMIT REVOCATION

A. Inspection of Premises. 1. Whenever a 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 a permit issued under this ordinance exists within the town, the town chair, town committee, or other agents of the town board shall promptly inspect or cause to be inspected the premises complained of 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.

2. If the person subject to complaint holds a current permit under this ordinance, or any Town Building Permit or Junked Vehicle Permit issued under s. 175.25, Wis. stats., and the town's village powers under s. 60.22, Wis. stats., the town chair, the town committee or other agents of the town board may immediately request the town board to hold a public hearing to consider suspension or revocation of the permit for refusal to comply with the permit conditions and this ordinance. The town board shall hold a public hearing prior to taking any action to revoke or suspend a permit. The permit holder shall be notified of the public hearing at least 20 days before the public hearing by the mailing by U.S. mail of a First-Class notice letter to the last known address of the permit holder noted on the permit or permit application.

3. The town board may, in the alternative to revocation, suspend any issued permit for a period of up to 6 months. Any revocation shall be for a period in excess of 6 months and no reapplication can be received or acted upon by the town board for the premises or for the owner or occupant of the premises for any activity, use, or item prohibited by or requiring a permit under this ordinance during the revocation period.

4. For any decision regarding the revocation or suspension of any permit, the town board shall determine and state the reason or reasons for any revocation, non-revocation, or suspension of the permit based on the lack of compliance with the permit conditions and this ordinance by the permit holder or by any employees or agents of the permit holder. The reason or reasons for the decision shall be stated in writing and sent to the permit holder within 10 days after the decision by the town board by mailing by U.S. mail of a First-Class letter to the last known address of the permit holder noted on the permit or permit application.

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 are subject to this ordinance.

C. Summary Abatement. 1. Notice to Owner. If the town chair, town committee, or other agents of the town board 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 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 or 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. 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. 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.

E. Other Methods Not Excluded. Nothing in this ordinance may be construed as prohibiting the injunction and abatement of public nuisances against any person, including against a permit holder that holds a current and valid permit issued by the town under this ordinance, by the town or its officials in accordance with the laws of the State of Wisconsin or this ordinance.

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 s. 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, the cost of abatement may be assessed against the real property for services rendered and incurred by the town to enjoin or abate the public nuisance as a special charge under s. 66.0627, Wis. stats., unless paid earlier. 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 s. 66.0139, Wis. stats., by public auction or other means as determined in writing by the town board.

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 this end the provisions of this ordinance are severable.

EFFECTIVE DATE

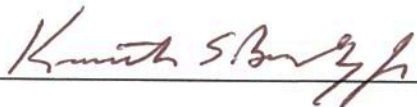
This ordinance is effective on publication or posting.

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

Adopted this 9 day of Oct, 2023.

[Signatures of town board]

Chairman  Supervisor 1  Supervisor 2 

Attest: [ Town clerk]

(Town of Scott 10/9/2023)