

CHAPTER 14 4-2011
CODE OF ORDINANCES
TOWN OF EXCELSIOR
SAUK COUNTY, WISCONSIN
NUISANCE ORDINANCE

SECTION I - TITLE AND PURPOSE

The title of this ordinance is the Town of Excelsior Public Nuisance Ordinance. The purpose of this ordinance is to regulate for public health and safety reasons public nuisances.

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, Wis. stats., and general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance.

SECTION III – APPLICABILITY

The Town of Excelsior Public Nuisance Ordinance applies only to property located within Single Family Residential Zoning Districts within the Town of Excelsior, Sauk County, WI.

SECTION IV - DEFINITIONS

- A. "Agricultural use" means raising of grain, grass, and seed crops on Single Family Residential zoned parcels.
- B. "Appliance" means any household or office device, instrument, utensil, apparatus, or machine that utilizes power, including, but not limited to any stove, clothes washer or dryer, refrigerator, dish washer, freezer, water heater, water pump, furnace, television set, home entertainment device, computer or peripheral device, or other home or office electronic device.
- C. "Building" includes any building or structure or any portion of a building or structure.
- D. "Debris" means any litter, junk, wood, bricks, paper, cement, concrete blocks, or any other unsightly accumulation of items or materials that may tend to depreciate property values in the adjacent or near area, create a blighted condition, present a threat to public health or safety, or create a public nuisance or a public safety or health hazard, except when such items are determined by the town board or town committee or other agent of the town to be stored or housed out of public view and are treated and maintained so as not to be a public nuisance.
- E. "Equipment" means goods used or bought for use primarily in a business, including farming, trades or a profession.
- F. "Firewood" means wood cut to usable lengths and neatly stored for use at the premises. Firewood does not mean pallets, building salvage materials, tree limbs and brush that is not cut to usable firewood lengths and neatly stacked.

- G. "Hazardous waste" means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under s. 291.05 (2), Wis. stats.
- H. "Junk" means scrap metal, metal alloy, wood, concrete, or synthetic or organic material; or any junked, inoperable, disassembled, wrecked, unlicensed, or unregistered vehicle; or any junked, inoperable, disassembled, wrecked structure, equipment, furniture, appliances, or machinery, or any part thereof. "Junk" also includes refuse, used tires, parts of dismantled buildings, agricultural use equipment not in usable condition, parts of agricultural use equipment, recyclable material, or any other debris, the accumulation of which has an adverse effect upon neighborhood or Town property values, health, safety, or general welfare.
- I. "Junk vehicle parts" means parts from a junked vehicle.
- J. "Junked" means stored or dismantled for parts, or scrapped.
- K. "Machinery" means a structure or assemblage of parts that transmits forces, motion, or energy from one part to another in a predetermined way by electrical, mechanical, or chemical means. "Machinery" does not include a building.
- L. "Not registered," in reference to "all-terrain vehicles" as defined in s. 340.01(2g), Wis. stats., "snowmobiles" as defined in s. 340.01(58a), Wis. stats., or "boats" as defined in s. 29.001(16), Wis. stats., means those that are required to, but do not have nor bear any current and valid State of Wisconsin registrations.
- M. "Noxious Weeds" means an invasive species of a plant that has been designated by county, state, or national agricultural authorities as one that is injurious to agricultural and/or horticultural crops, natural habitats and/or ecosystems, and/or humans or livestock. Lake weeds do not fall under the jurisdiction of the ordinance.
- N. "Public nuisance" means a thing, act, occupation, condition, or use of property that continues in the town so as to do any of the following:
1. 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. Offend the public morals or decency.
 4. Unlawfully and substantially interfere with, obstruct, or attempt 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.
 5. Adversely affect or perceived to have an adverse affect upon neighborhood or town property values, health, safety or general welfare.
- O. "Recyclable material" means material that is suitable for recycling.
- P. "Solid waste" means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste and other organics, boxes, barrels and other containers, tires and other like materials, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and any other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, agricultural, and community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under chapter 283, Wis. stats., source material, as defined in s. 254.31 (1), Wis. stats., special nuclear material as defined in s. 254.31 (11), Wis. stats., or by-product material, as defined in s. 254.31 (10), Wis. stats.
- Q. "Town" means the Town of Excelsior, Sauk County, Wisconsin.
- R. "Town board" means the Town Chairman and the Town Supervisors for the Town of Excelsior, Sauk County, Wisconsin and includes designees of the board authorized to act for the board, specifically including the town clerk and zoning administrator.

- S. "Town chair" means the chairperson of the Town of Excelsior, Sauk County, Wisconsin.
- T. "Town clerk" means the clerk of the Town of Excelsior, Sauk County, Wisconsin.
- U. "Unlicensed" or "unregistered" in reference to vehicles, mobile homes, or manufactured homes means those that are required to be licensed or registered for operation in the state, but do not have nor bear required current and valid State of Wisconsin licenses or registration.
- V. "Vehicle" means every device in, upon, or by which any person or property is or may be transported. "Vehicle" includes, but is not limited to, all of the following:
1. "Aircraft" as defined in s. 29.001 (6), Wis. stats.
 2. "All-terrain vehicles" as defined in s. 340.01 (2g), Wis. stats.
 3. "Antique vehicles" as described in s. 341.265, Wis. stats.
 4. "Automobiles" as defined in s. 340.01 (4), Wis. stats.
 5. "Boats" as defined in s. 29.001 (16), Wis. stats.
 6. "Camping trailers" as defined in s. 340.01 (6m), Wis. stats.
 7. "Farm equipment" as defined in s. 100.47 (1), Wis. stats.
 8. "Farm tractors" as defined in s. 340.01 (16), Wis. stats.
 9. "Hobbyist or homemade vehicles" as defined in s. 341.268, Wis. stats.
 10. "Junk vehicles" as defined in s. 340.01 (25j), Wis. stats.
 11. "Implements of husbandry" as defined in s. 340.01 (24), Wis. stats.
 12. "Manufactured homes" as defined in s. 101.91 (2), Wis. stats.
 13. "Mobile homes" as defined in s. 340.01 (29), Wis. stats.
 14. "Mopeds" as defined in s. 340.01 (29m), Wis. stats.
 15. "Motor bicycles" as defined in s. 340.01 (30), Wis. stats.
 16. "Motor buses" as defined in s. 340.01 (31), Wis. stats.
 17. "Motor homes" as defined in s. 340.01 (33m), Wis. stats.
 18. "Motor trucks" as defined in s. 340.01 (34), Wis. stats.
 19. "Motorcycles" as defined in s. 340.01 (32), Wis. stats.
 20. "Railroad trains" as defined in s. 340.01 (48), Wis. stats.
 21. "Recreational vehicles" as defined in s. 340.01 (48r), Wis. stats.
 22. "Road machinery" as defined in s. 340.01 (52), Wis. stats.
 23. "Road tractors" as defined in s. 340.01 (53), Wis. stats.
 24. "Salvage vehicles" as defined in s. 340.01 (55g), Wis. stats.
 25. "School buses" as defined in s. 340.01 (56), Wis. stats.
 26. "Semi trailers" as defined in s. 340.01 (57), Wis. stats.
 27. "Snowmobiles" as defined in s. 340.01 (58a), Wis. stats.
 28. "Special interest vehicles" as defined in s. 341.266, Wis. stats.
 29. "Trailers" as defined in s. 340.01 (71), Wis. stats. (Small unlicensed trailers are allowed.)
 30. "Truck tractors" as defined in s. 340.01 (73), Wis. stats.
 31. Unlicensed demolition vehicles and unlicensed racing vehicles.
 32. Golf carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles that require no registration or licensure by the State of Wisconsin.
- W. "Wild animal" means any animal of a wild nature that is normally found in the wild and that is not a farm-raised deer, a pet bird, a farm-raised game bird, or an animal that is listed as a domestic animal by rule by the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection.

- X. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

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:

- A. Unburied animal carcass areas. Any unburied animal carcasses located on private or public land, and the animal carcasses are not timely removed or discarded, including by timely burial in a sanitary manner, within twenty four (24) hours after receipt of written notice to remove from the town board. This paragraph does not apply to any animal or pet cemetery approved in writing by the town.
- B. Noxious or polluted or waste areas. Any place where noxious, nauseous, unwholesome, or polluted water and waste are located on private or public land, including town roads, highways, bridges, sidewalks, alleys, or other public lands owned or controlled by the town, and those conditions are not timely removed within one (1) week after receipt of written notice from the town board.
- C. Rat or vermin areas. Any place where rats or other vermin are located or frequent on public or private land, and those conditions are not removed or destroyed within twenty four (24) hours after receipt of written notice to remove from the town board.
- D. Unauthorized human burial areas. Any place where the body of a deceased person or parts of a deceased person are located and buried on private or public land in the town without written approval of the town board and are not timely removed within two (2) weeks after receipt of written notice to remove from the town board. This paragraph does not apply to any established cemetery or burial site grounds approved, owned, and operated in accordance with chapter 157, Wis. stats.
- E. Hazardous, toxic, or solid waste areas. Any place where the discharge, disposal, storage, or treatment of hazardous, toxic, or solid waste occurs on private or public lands without approval and licensing or permitting of the discharge, disposal, storage, or treatment by all proper federal, state, county, and town governing authorities and full compliance with all applicable laws, rules, regulations, or ordinances of the federal, state, county, or town, and the activity or condition is not timely removed or discontinued within twenty four (24) hours after receipt of written notice to remove from the town board. To constitute a public nuisance under this paragraph, an area, facility, or site must threaten or cause serious discomfort or serious injury to the health or cause serious inconvenience to the health or safety of an individual or persons within the town, as determined by the town board.
- F. Dangerous wild animal areas. Any place where live dangerous wild animals are kept, sold, or in any manner controlled or possessed on private or public land without written approval of the town board and the animals are not removed or destroyed within twenty four (24) hours after receipt of written notice to remove from the town board unless written approval of the town board is obtained within said time. To constitute a dangerous wild animal, under this paragraph, the species of animal must pose a threat to the safety of persons within the town, including a keeper of the animal, as determined by

the town board. It is not necessary that the town board find that a specific animal is dangerous in order to find a nuisance under this paragraph

- G. Dangerous or dilapidated building areas. Any place where a building or structure, the contents of a building or structure, or any associated electrical, heat, water, or sewer system located on public or private lands is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, and the conditions that are dangerous, unsafe, unsanitary, or otherwise render the building unfit for human habitation are not timely removed or discontinued within one (1) week of receipt of written notice to remove from the town board.
- H. Dangerous tree areas. Any place where any trees or the tree's limbs located on private or public lands constitute a dangerous or unsafe condition and these dangerous or unsafe conditions have not been timely removed within twenty four (24) hours after receipt of written notice to remove from the town board.
- I. Fire hazard areas. Any place where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored within twenty four (24) hours after receipt of written notice from the town board.
- J. Junked vehicle, appliance, and machinery areas. Any place where junked or abandoned vehicles, or junked or abandoned appliances, equipment, or machinery are accumulated or stored for a period exceeding 72 hours if upon public property, or for a period exceeding 72 hours if upon private property, that is not timely removed or discontinued within one (1) week of receipt of written notice to remove from the town board.
- K. Unlicensed or unregistered vehicle area. Any place where for a period exceeding 72 hours upon private or public property a not registered, unlicensed, or unregistered vehicle is parked, stored, or otherwise kept outside a building without the written permission of the town board and is not timely removed or discontinued within one (1) week of receipt of written notice to remove from the town board.
- L. Noisy Animals or Fowl. Any place where for a period exceeding 72 hours the keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making other noises shall greatly annoy or disturb a neighborhood or an individual or person.
- M. Animals At Large. Animals at large shall be regulated by the Sauk County Chapter 27 Animal Control Ordinance.
- N. Open Pits, Basements, Etc. All open and unguarded pits, wells, excavations and basements.
- O. Firewood. Any place where firewood is stored, except firewood that is for use on the premises.
- P. Noxious Weeds. Any place where noxious weeds are located in drainage swales and detention basins on private or public land, and those conditions are not timely removed within one (1) week after receipt of written notice from the town board. Lake weeds do not fall under the jurisdiction of this ordinance.
- Q. Boats, Canoes and Kayaks. Boats, canoes and kayaks that are not required to be licensed by the state are allowed. They shall not be stored in the front yard.
- R. Small Trailers. Small trailers that are not required to be licensed by the state are allowed. They shall not be stored in the front yard.

SECTION VI - 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, including the road right-of-way, for such time and under such circumstances so as to cause the vehicle, appliance, equipment, or machinery 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 one week, 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 VIII of this ordinance.

SECTION VII – EXCEPTION FOR CERTAIN AGRICULTURAL USES

- A. Agricultural Use. An “agriculture use” is not a nuisance under this Ordinance if all of the following apply:
1. The agriculture use alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agriculture use without interruption before the person affected thereby began the use of property that said person alleges was interfered with by an agricultural use.
 2. The agriculture use does not present a threat to public health and safety.

SECTION VIII - ABATEMENT OF PUBLIC NUISANCES.

- A. Inspection of Premises. Whenever a signed written complaint or petition, or e-mail including the senders contact information, is made to the Town Chair or Town official designated by the Town Chair, that a public nuisance under this ordinance exists, the town chair or Town official designated by the Town Chair shall within one week 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 designated town official shall cause photographs to be made of the premises for inclusion in the written report to the town board.
- B. Owner or Occupant of Premises Responsibility. Any owner or occupant of land 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 or designated Town official determine that a public nuisance exists under this ordinance on private or public land and that there is great, immediate, and substantial danger or threat to the public health or safety, the Town Chair or designated Town official shall serve a written order notice 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 one week 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 or designated Town official, 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 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 by the town, or its officials or other government agencies in accordance with the laws of the State of Wisconsin or this ordinance, including against a permit holder that holds a current and valid permit issued by the town under this ordinance.

F. Citations. The Town Board may enforce against such public nuisance violations in this Ordinance by issuance and service of a Citation against any alleged violation of this Ordinance.

G. 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 will 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 service.

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 \$10.00 nor more than \$200.00, 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.

SECTION IX - 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 \$100.00 for the first offense and \$200.00 for any subsequent offense, 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.

SECTION X- EFFECTIVE DATE

This ordinance is effective upon publication or posting. The Town Clerk shall properly post/publish this ordinance as required under section 60.80 of the Wisconsin State Statues.

Adopted this 12 day of April, 2011.



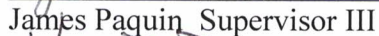
Joe Fish Chair



Kurt Muchow Supervisor I



Geoffrey Grant Supervisor II



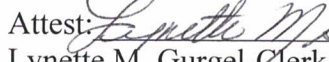
James Paquin Supervisor III



Kerry Zimmerman Supervisor IV

4-19-11 + 4/21/11

Published/Posted this 12 day of April 2011.

Attest: 

Lynette M. Gurgel-Clerk
Town of Excelsior