

**Title 6 - HEALTH AND SANITATION**

**Chapter 6 - PUBLIC NUISANCES**

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**6.6.1 Purpose.**

The purpose of this ordinance is to define, prohibit, regulate and abate public nuisances and to prohibit the abandonment and regulate the removal and disposal of vehicles in the Town.

**6.6.2 Public Nuisance Prohibited.**

**6.6.2.01 Public Nuisance**

A public nuisance is an object, act, occupation, condition or use of property which shall continue for such length of time 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 the use of property;
- (C) Greatly offend the public morals or decency;
- (D) Unlawfully and substantially interfere with, or 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; or
- (E) Be detrimental to the property of others or which causes or tends to cause a substantial diminution in value of other property in the neighborhood in which the object, act, occupation, condition or use of property is located.

**6.6.2.02 Public Nuisances Affecting Health**

The following acts, omissions, places, 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 6.6.2.01 of this section:

- (A) 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 the death of such animal, bird or fowl.
- (B) 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.
- (C) Privy vaults and garbage containers which are not fly-tight.
- (D) All animals running at large.
- (E) 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 of Grafton.
- (F) The flow of liquid or substance from a sanitary system using a holding tank caused by the failure to timely pump out the contents of such holding tank, requiring the Town to assume responsibility for the pumping of said tank. Each pumping by the Town shall constitute a separate offense.

**6.6.2.03 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 provisions of Subsection 6.6.2.01 of this section:

- (A) 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.

- (B) All unauthorized signs, signals, markings, or divides placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control device, railroad signal or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (C) 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. Any such obstruction which falls within a vision clearance triangle extending twenty-five (25) feet horizontally along each street line from their intersection and within a vertical clearance of six (6) feet shall be presumed to be a violation of this subsection.
- (D) Trees or shrubs which project over and less than eight (8) feet above the surface of a public sidewalk, easement or right of way, or fourteen (14) feet above the surface of that portion of a street, highway or road traveled by vehicles; all dead trees or dead or broken bows or branches on a tree overhanging any sidewalk, easement, right of way, street, highway or road.
- (E) All trees, shrubs, fences, structures, animal carcasses, stones larger than one inch in diameter, or other obstructions to walking, parking, mowing, or snow removal on the public right of way to highways, roads and streets in the town.
- (F) The use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.
- (G) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use or occupancy.
- (H) All wires over streets, alleys, highways, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (I) All loud, discordant, and unnecessary noises or vibrations of any kind, which greatly annoy or disturb persons within the Town of Grafton.
- (J) The keeping or harboring of any animal or fowl which is frequently or habitually howling, yelping, barking, crowing or making other noises which greatly annoy or disturb persons within the Town of Grafton.
- (K) All obstructions of streets, alleys, highways, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town of Grafton or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- (L) All open or not securely covered and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley, highway or sidewalk.
- (M) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (N) Repeated or continuous violations of the ordinances of the Town of Grafton or Wisconsin Statutes relating to the use or storage of flammable liquids.

**6.6.2.04 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 Grafton, but such enumeration shall not be considered to exclude either nuisances within the definition of subsection 6.6.2.01 of this section:

- (A) Definitions:
  - (1) "Litter" as is used in this ordinance includes, but is not limited to, trash and wastepaper lying scattered about; and an untidy accumulation of objects of any kind.
  - (2) "Trash" as used in this ordinance includes, but is not limited to, material or objects worth little or nothing, or material or objects in a crumbled, broken or inoperable condition.
  - (3) "Rubbish" as used in this ordinance includes, but is not limited to waste materials and refuse of every character and kind, collected or accumulated or both.
- (B) All owners of property located within a residential district of the Town of Grafton who fail to keep their premises free of litter, debris, trash, or rubbish shall be in violation of this subsection.
- (C) All property owners within the Town of Grafton who allow their property to accumulate trash, litter or rubbish shall be considered to be in violation of this subsection.
- (D) No person owning, leasing, occupying or having charge of any property in a residential area shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such property in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the property of any of the following:
  - (1) Lumber, junk, trash, debris or litter;
  - (2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, mattresses, stoves, refrigerators, freezers, cans or containers.
- (E) Storage of personal property.
  - (1) As used in this subsection, the term "personal property" includes old, unused, stripped, junked and other automobiles not in good and safe operating condition, and any other vehicles, machinery, implements or equipment and tangible property of any kind which is no longer safely usable for the purposes for which it was manufactured.
  - (2) Unsheltered storage of personal property in a residential or conservancy district for a period of thirty (30) days or more (except in licensed junk yards) within the Town of Grafton is declared to be a nuisance and dangerous to the public safety.
  - (3) The owners, tenants, lessees and occupants of any lot in the Town of Grafton on which such storage is made, and also the owners, or lessees of the personal property involved in such storage shall jointly and severally abate the nuisance by the prompt removal of the personal property into enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the Town, or otherwise to remove it to a location without said corporate limits.

**6.6.3 Abandoned Vehicles.**

**6.6.3.01 Definition**

Pursuant to the authority contained in Sec. 342.40, Wis. Stats., vehicles left unattended under the following circumstances shall be deemed abandoned and shall constitute a public nuisance, to-wit: any unattended motor vehicle, trailer, semi-trailer or mobile home left unattended, without the property owner's permission, on any public street, highway, road or private or public property for more than seventy-two (72) hours.

**6.6.3.02 Removal of Abandoned Vehicles**

Whenever an abandoned vehicle is found, it shall be impounded until lawfully claimed or disposed of under Subsection 6.6.3.03, except that if it is deemed by a Town official that the cost of towing and storage charges exceed the value of the vehicle, the vehicle may be junked or sold by the Town prior to the expiration of the impoundment period upon determination by a Town official or the County Sheriff that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with Subsection 6.6.3.03.

**6.6.3.03 Disposal**

- (A) Any vehicle which is deemed abandoned by the Town Chairperson and not disposed of under Section 6.6.4 shall be retained in storage for a minimum period of ten (10) days after certified mail notice has been sent to the owner and lien holders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim the vehicle.
- (B) The notice shall state that the failure of the owner or lien holders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title and interest in the vehicle and a consent to the sale of the vehicle.
- (C) Each retained vehicle not reclaimed by its owner or lien holder within the applicable time periods set forth above may be sold. The Town may dispose of the vehicle by sealed bid or auction sale. At such sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the Town Chairperson, in which event all bids may be rejected. If all bids are rejected or no bid is received, the Town may either re-advertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. To advertise the sale, a public notice shall be posted at the office of the Town Clerk, and the posting of the notice shall be in the same form as the certified mail notice sent to the owner or lien holders of record.
- (D) Upon sale of an abandoned vehicle, the Town shall supply the purchaser with a complete form to be signed by the Wisconsin Department of Transportation enabling a purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten (10) days to remove the vehicles from the storage area, but shall pay a reasonable storage fee established by the Town for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again.
- (E) Costs. In addition to any other cost or penalty imposed by this ordinance, the owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and

all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the Town against the owner.

**6.6.4 Abatement of Public Nuisances.**

**6.6.4.01 Inspection of Premises**

When a complaint is made to a Town Enforcement Officer that a public nuisance exists within the Town of Grafton, the enforcement officer shall promptly inspect or cause to be inspected the alleged nuisance. A town enforcement officer is any law enforcement officer or other town official or employee who may be appointed from time to time by the Town Board to enforce this ordinance.

**6.6.4.02 Summary Abatement**

- (A) Notice to Owner. If the enforcement officer determines that a public nuisance exists within the Town that poses an immediate danger to the public health, safety, peace, morals or decency, the enforcement officer shall serve a notice on the person causing, permitting or maintaining such nuisance, or on the owner or occupant of the premises on which such nuisance is caused, permitted or maintained or post a copy of the notice on the premises. The notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate such nuisance within a specified time and shall state that unless such nuisance is so abated, the Town will cause the nuisance to be abated and will charge the cost to abate the nuisance to the owner, occupant or person causing, permitting or maintaining the nuisance.
- (B) Abatement by Town. If the nuisance is not abated within the specified time or if the owner, occupant or person causing, permitting or maintaining the nuisance cannot be found, the enforcement officer shall cause the abatement of the nuisance.
- (C) Abatement by Court Action. If the enforcement officer determines that a public nuisance exists within the Town, but the nuisance does not pose an immediate danger to the public health, safety, peace, morals or decency, he shall cause an action to abate such nuisance to be commenced in the name of the Town of Grafton in the Circuit Court of Ozaukee County in accordance with the provisions of Ch. 823, Wis. Stats.
- (D) Other Methods Not Excluded. Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Grafton, or its officials, in accordance with the laws of the State of Wisconsin.

**6.6.4.03 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 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 of abatement of the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**6.6.4.04 Penalty**

- (A) Penalty for first offense. Any person who shall violate this ordinance, shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$200.00 together with any penalty assessment imposed by statute and the cost of prosecution, and in default of payment of such sums shall be imprisoned in the county jail for not more than 90 days or until such sums are paid, whichever first occurs.
- (B) Penalty for second offense. Any person guilty of violating this ordinance who shall previously have been convicted of a violation of the same ordinance shall upon

conviction thereof forfeit not less than \$100.00 nor more than \$400.00 for each such offense, together with penalty assessment imposed by statute and the cost of prosecution, and in default of payment of such sums shall be imprisoned in the County Jail for not more than six months or until such sums are paid, whichever first occurs.

- (C) Each day of violation of this ordinance shall constitute a separate offense (except for the offense described in Subsection 6.6.2.02(F)).
- (D) This ordinance may be enforced by citations upon authorization of the Town Board.

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