

ORD. 2011-001
PUBLIC NUISANCE ORDINANCE

STATE OF WISCONSIN
Town of Dunn
Dunn County

SECTION I - TITLE AND PURPOSE

The title of this ordinance is the Town of Dunn 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](#), 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

A. "Agricultural use" means any beekeeping, commercial feed lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint, and seed crops, raising of fruits, nuts, and berries, sod farming, placing land in federal programs in return for payments in kind, owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836, participating in the milk production termination program under 7 USC 1446 (d), and vegetable raising.

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 substantial 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 or items used or bought for use primarily in a business, including farming and a profession.

F. "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.

G. "Junk" means scrap metal, metal alloy, wood, concrete, or synthetic or organic material or any junked, inoperative, unlicensed, or unregistered vehicle, structure, equipment, furniture, appliances, or machinery, or any part thereof. "Junk" includes refuse, used tires, parts of dismantled buildings, agricultural use equipment not in usable condition, parts of agricultural use equipment, and contaminated recyclable material.

H. "Junked" means dismantled for parts or scrapped.

I. "Junked vehicle parts" means parts from a junked vehicle.

J. "Junkyard" means any place that is owned, maintained, operated, or used for storing, keeping, processing, buying, or selling junk. "Junkyard" includes sanitary landfills, refuse dumps, garbage dumps,

automobile graveyards, scrap metal processors, auto-wrecking yards, salvage yards, auto-recycling yards, used auto parts yards, and places for temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises. "Junkyard" does not include places where litter, trash, and other debris are scattered along or upon a highway or temporary operations and outdoor storage of limited duration.

K. "Local zoning and land use regulation" means any applicable county, town, or extraterritorial zoning, subdivision, land division, platting, official map, building code, building permit, or other ordinance adopted pursuant to general police powers that is applicable in any manner to the use of land.

L. "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.

M. "Motor vehicle dealer" has the meaning given in s. [218.0101 \(23\)](#), Wis. stats.

N. "Motor vehicle salvage dealer" has the meaning given in s. [218.20 \(1r\)](#), Wis. stats.

O. "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, required current and valid State of Wisconsin licenses or registrations.

P. "Noxious weed" means Canada thistle, leafy spurge and field bindweed (creeping Jenny) and any other weed the Town of Dunn declares to be noxious within its borders. 66.0407(1)(b) Wisc. Stats.

Q. "Public nuisance" means a thing, act, occupation, condition, or use of property that continues in the town for such time as to do any of the following:

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 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.

R. "Recyclable material" means material that is suitable for recycling.

S. "Scrap metal processor" means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel, or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metal scrap for sale for remelting purposes.

T. "Solid waste" means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste and other organics (with the exception of a properly maintained compost), 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 \(1\)](#), Wis. stats.

U. "Solid waste facility" means a facility for solid waste treatment, solid waste storage, or solid waste disposal, and includes commercial, industrial, municipal, state, and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services, and processing, treatment, and recovery facilities. "Solid waste facility" includes the land where the facility is located. "Solid waste facility" does not include any of the following:

1. A facility for the processing of scrap iron, steel, or nonferrous metal using machinery to produce a principal product of scrap metal for sale or use for remelting purposes.

2. A facility that uses machinery to sort, grade, compact, or bale clean wastepaper, fibers, or plastics, not mixed with other solid waste, for sale or use for recycling purposes.

3. An auto junkyard or scrap metal salvage yard.

V. "Town" means the Town of Dunn, Dunn County, Wisconsin.

W. "Town board" means the board of supervisors for the Town of Dunn, Dunn County, Wisconsin, and includes designees of the board authorized to act for the board, specifically including the town clerk and town chair.

X. "Town chair" means the chairperson of the Town of Dunn, Dunn County, Wisconsin.

Y. "Town clerk" means the clerk of the Town of Dunn, Dunn County, Wisconsin.

Z. "Town committee" means a committee established by the town board to address and aid in regulation of those uses and activities that may cause public nuisance or public health and safety threats in the town.

AA. "Unlicensed" or "unregistered" in reference to vehicles, mobile homes, or manufactured homes **or buildings** 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.

AB. "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 \(16\)](#), 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 \(58\)](#), 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.
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.

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

SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section,"

"subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VI - 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. **Noxious weed areas.** Any place in the *boundaries of the Downsville Sanitary District* where noxious weeds are over one foot high, are located on private or public land, and the noxious weeds are not timely cut or removed within **7 days** after posting or publication of a notice to destroy noxious weeds under s.66.0407, Wis. Stats., or within **7 days** after receipt of written notice (by certified mail) to remove from the town board.
- B. **Noxious or polluted or waste areas.** Any place in the *Town of Dunn* 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 **7 days** after receipt of written notice from the town board.
- C. **Noxious emission odor areas.** Any place in the *boundaries of the Downsville Sanitary District* where noxious odor, stench, or gas escapes or is emitted into the open air from sources located on public or private land, and these conditions are not timely removed or discontinued within **48 hours** after receipt of written notice to remove from the town board. In this subsection, "noxious odor" means an odor that is extremely repulsive to the senses of ordinary persons in the town and that seriously annoys or causes serious discomfort or serious injury to the health or causes serious inconvenience to the health or safety of a significant number of persons within the *boundaries of the Downsville Sanitary District*, as determined by the town board.
- D. **Rat or vermin areas.** Any place in the *boundaries of the Downsville Sanitary District* where rats or other vermin are located or frequent on public or private land, and those conditions are not removed or destroyed within **7 days** after receipt of written notice to remove from the town board. Vermin subject to this paragraph include, but not limited to, all of the following:
 - 1. Rats
- E. **Dangerous or dilapidated building areas.** Any place in the *boundaries of the Downsville Sanitary District* 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 **14 days** of receipt of written notice to remove from the town board.
- F. **Dangerous tree areas.** Any place in the town where any trees or the tree's limbs located on private or public lands constitute a dangerous or unsafe condition as determined by the town board and these dangerous or unsafe conditions have not been timely removed within **14 days** after receipt of written notice to remove from the town board, or time of removal indicated in the written notice.
- G. **Fire hazard areas.** Any place in the *boundaries of the Downsville Sanitary District* where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored within **7 days** after receipt of written notice from the town board.
- H. **Junkyard and junked vehicle, appliance, and machinery areas.** Any place in the *boundaries of the Downsville Sanitary District* 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 30 days if upon private property, and any place otherwise within the definition of junkyard under this ordinance that is not timely removed or discontinued within **14 days** of receipt of written notice to remove from the town board, unless exempt under Section VIII of this ordinance.

- I. Unlicensed or unregistered vehicle area.** Any place in the *boundaries of the Downsville Sanitary District* where for a period exceeding 30 days upon private 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 **14 days** of receipt of written notice to remove from the town board, unless exempt under Section VIII of this ordinance.

SECTION VII - ABANDONED VEHICLES, MACHINERY, EQUIPMENT, AND APPLIANCES ON PUBLIC LANDS

No person *in the Town of Dunn* 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.

SECTION VIII - EXEMPTIONS AND PERMITS

A. Exemptions.

1. Any operation of a junkyard 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 operation of the junkyard have obtained all the proper and necessary federal, state, county, town, and extraterritorial municipal approvals, permits, or licenses for the operation or have obtained licenses for operation of a junkyard on that privately owned premise under s. [84.31](#), Wis. stats., is exempt from the provisions of Section VI, subsection H, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the approvals, permits, or licenses.

2. Any commercial motor vehicle salvage or motor vehicle retail sales business 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 conduct of the business hold a current motor vehicle salvage dealer license under s. [218.205](#), Wis. stats., authorizing storage uses, operations, and activities at property locations in the town or hold a current motor vehicle dealer license under s. [218.0114](#), Wis. stats., for salvage, sale, or storage operation and activities at a property location in the town, and are actively engaged in the town, as determined in writing by the town board, in the commercial motor vehicle salvage or motor vehicle retail sales business on property in the town is exempt from the provisions of Section VI, subsection H, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.

3. Any business engaged in the retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles 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 conduct of the business hold a current and valid manufactured home dealers license under s. [101.951](#), Wis. stats., or a current and valid recreational vehicle dealers license under s. [218.12](#), Wis. stats., issued by the State of Wisconsin, and are actively engaged in the town, as determined in writing by the town board, in the business of commercial retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on property in the town is exempt from Section VI, subsection H, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.

SECTION IX - 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 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 on 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.

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. 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 in accordance with the laws of the State of Wisconsin or this ordinance.

SECTION X - 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.

SECTION XI - ENFORCEMENT PROVISIONS

A. Penalties.

1. *1st Offense.* Any person who violates this ordinance shall, upon conviction, forfeit \$100.

2. *Second and Subsequent Offenses; Penalty.* Any person guilty of violating this ordinance or any person who has previously been convicted of a violation of this ordinance shall, upon conviction, forfeit \$500.

SECTION XII - 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.

SECTION XIII - 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 _____ day of _____, 20____.

Chairman, Don Heit

1 Supervisor, Dennis Weber

2 Supervisor, John Miller

Passed and approved this
_____ day of _____, 20____

Recorded in the Regular
Town Board Minutes dated

Vicki Price, Clerk
Town of Dunn