

**TOWN OF BEVENT, MARATHON COUNTY, WISCONSIN
ORDINANCE NO. 7.03-2000 ENTITLED PUBLIC NUISANCES**

The Town Board of the Town of Bevent, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Ordinance No. 7.03-2000 entitled "Public Nuisance Ordinance" is hereby repealed and recreated to provide as follows:

I. TITLE. The title of this Ordinance is the Town of Bevent Public Nuisance Ordinance.

II. PURPOSE. The purpose of this Ordinance is to regulate for public health and safety reasons, the storage, treatment, disposal, and discharge of certain junk and of other items, uses, and activities in the Town which constitute a public nuisances.

III. AUTHORITY. This Ordinance is adopted under the authority of Wis. Stats. §§ 29.038, 66.0407, 66.0413, 125.14, 169.01, and 175.25, and ch. 823, as well as the Town's police powers pursuant to Wis. Stat. § 60.22.

IV. DEFINITIONS.

A. "Agricultural" means any beekeeping, commercial feed lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, tree farming, Christmas tree farming, 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 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 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.

F. "Hazardous waste" means any solid waste identified by the State of Wisconsin, Department of Natural Resources as hazardous under Wis. Stat. § 291.05 (2).

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, used tires, parts of dismantled buildings, agricultural equipment not in usable condition, parts of agricultural equipment, and contaminated recyclable material.

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

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 Wis. Stat. § 218.0101 (23).

N. "Motor vehicle salvage dealer" has the meaning given in Wis. Stat. § 218.20 (1r).

O. "Not registered," in reference to "all-terrain vehicles" as defined in Wis. Stat. § 340.01 (2g), "snowmobiles" as defined in Wis. Stat. § 340.01 (58a), or "boats" as defined in Wis. Stat. § 29.001 (16), means those that are required to, but do not have nor bear, required current and valid State of Wisconsin licenses or registrations.

P. "Noxious odor" means an odor that is repulsive to the senses of ordinary persons in the Town or 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 Town, as determined by the Town Board.

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. Render the public insecure in life or in the use of property in any way.
3. Substantially depreciates property values in the neighborhood.
4. Greatly offends the public morals or decency.
5. Unlawfully and substantially interferes with, obstructs, or attempts 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, 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, residential, mining, agricultural, and community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Wis. Stat. Ch. 283, source material as defined in Wis. Stat. § 254.31 (1), special nuclear material as defined in Wis. Stat. § 254.31 (11), or by-product material as defined in Wis. Stat. § 254.31 (1).

U. "Solid waste facility" means a facility for solid waste treatment, solid waste storage, or solid waste disposal, and includes 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 entire premises where the facility is located.

V. "Town" means the Town of Bevent, Marathon County, Wisconsin.

W. "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.

X. "Vehicle" means every device in, upon, or by which any person or property is or may be transported.

V. PUBLIC HEALTH AND SAFETY. No person may create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the Town a public nuisance. The following acts, uses, activities, things, occupations, places, or physical conditions are specifically declared to be a public nuisance, but such enumeration shall not be construed to exclude other health, peace, and safety nuisances as defined hereinabove:

A. Noxious weeds. Noxious weeds not timely cut or removed within seven (7) days after receipt of written notice to remove from the Town Board.

B. Unburied animal carcass areas. 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.

C. Stagnant Water. All stagnant water in which mosquitoes, flies or other insects can multiply.

D. Noxious emission odor areas. Any use of property, substances or things in the Town causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Town.

E. Rat or vermin areas. Any place in the Town where rats, vermin, feral pets, or other vectors are located or frequent.

F. Unauthorized human burial areas. Any place in the Town where the body of a deceased person and/or parts of a deceased person is located and buried. This paragraph does not apply to any established cemetery or burial site grounds approved, owned, and operated in accordance with Wis. Stat. Ch. 157.

G. Hazardous, toxic, or solid waste facility or site. Any premises, place or solid waste facility in the Town where the discharge, disposal, storage, or treatment of hazardous, toxic, or solid waste occurs 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.

H. Dangerous or dilapidated buildings. Any building or structure in the Town where the building or structure, or any associated electrical, heat, water, or sewer system, is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation.

I. Improper encroachment. Any unauthorized or improper encroachment, including trees, limbs, weeds, crops, or any other vegetation on any Town roadway or on other Town public lands without written permission from the Town Board.

J. Improper discharge areas. Any unauthorized or improper discharges, including solid waste, vehicles, structures, equipment, signs, manure, and other materials on any Town roadway or on other Town public lands without written permission from the Town Board.

K. Junked vehicle and junked part areas. Any unsheltered storage or keeping of one or more abandoned, wrecked, dilapidated, junked, unsightly, burned out, partially demolished, partially salvaged, discarded, damaged or unregistered motor vehicle(s), all-terrain vehicle(s), motorcycle(s), motor bike(s), snowmobile(s), bus(s), mobile home(s), motor home(s), recreational vehicle(s), camper(s), van(s), trailer(s), or other such similar vehicle or device.

L. Junked appliance and machinery. Any unsheltered storage or keeping of junked or abandoned appliances, equipment, or machinery.

M. Accumulations of trash. Any accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any junk material.

N. Garbage cans. Any garbage can that is not fly-tight.

O. Pits and wells. An open and unguarded pit, well, excavation or unused basement that is accessible from any public roadway, alley or sidewalk.

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), appliance, solid waste, 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, solid waste, equipment, or machinery to reasonably appear to have been abandoned. When any vehicle, appliance, solid waste, equipment, or machinery 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, appliance, solid waste, equipment, or machinery is presumed by the town to be abandoned and a public nuisance and may be removed in accordance with Wis. Stat. § 342.40, and the owner of the vehicle is subject to the imposition of forfeitures as set forth hereinbelow.

VII. EXEMPTIONS. Any operation of a junkyard 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 is exempt from the provisions 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.

VIII. ABATEMENT OF PUBLIC NUISANCES.

A. Inspection of Premises. Whenever a complaint is made to the Town Board, Town Clerk, or Town Chair that a public nuisance under this Ordinance or a violation of a permit issued under this Ordinance exists within the Town, the Town Chair 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 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 regardless of ownership of and responsibility for the uses, activities, or things located on the land that are subject to this Ordinance.

C. Emergency Abatement.

1. Notice to Owner. If the Town Chair or Town Board determine that a public nuisance exists under this Ordinance and that there is great, immediate, and substantial danger or threat to the public health or safety, the Town Board or Town Chair 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 order 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 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 24 hours or if the owner, occupant, or person causing the public nuisance, if known,

cannot be found, the Town Chair, Town committee, or 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 but that the nature of the nuisance does not threaten great, immediate, and substantial danger to the public health or safety, the Town Board may take one or more of the following actions:

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 Wis. Stat. Ch. 823.

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, by the Town, or its officials in accordance with the laws of the State of Wisconsin or this Ordinance.

IX. 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 Wis. Stat. § 823.06, 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 Wis. Stat. § 66.0627, 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 Wis. Stat. § 66.0139 by public auction or other means as determined in writing by the Town Board.

X. ENFORCEMENT PROVISIONS.

A. Penalties.

1. First Offense. Any person who violates this Ordinance shall, upon conviction, forfeit not less than \$10 nor more than \$200 together with the costs of

prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County jail until the forfeiture and costs are paid but not exceeding 30 days.

2. Second and Subsequent Offenses. Any person guilty of violating this Ordinance or any person who has previously been convicted of a violation of this Ordinance, upon conviction, shall forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the County jail until the forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

B. Separate Violations. Each day of violation of this Ordinance constitutes a separate offense.

XI. 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 2: All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3: This Ordinance shall be in full force and effect from and after its date of passage and publishing.

TOWN BOARD, TOWN OF BEVENT

BY: 
Ron Yenter, Chairman

ATTEST:


Anne Mieska, Town Clerk

ADOPTED: 8-7-13

PUBLISHED: 8-17-13