

TOWN OF BELLE PLAINE
DEFINING AND PROHIBITING
PUBLIC NUISANCE
ORDINANCE NO. 30-92

WHEREAS, it is in the interests of the public that certain nuisances be defined as public nuisances.

WHEREAS, the Town Board of the Town of Belle Plaine has power under Village Powers pursuant to Section 60.22(3), to enact ordinances defining and prohibiting public nuisances.

NOW THEREFORE, Town Board of Supervisors of the Town of Belle Plaine, Shawano County, Wisconsin, does hereby ordain as follows:

SECTION 1: PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Town of Belle Plaine, Shawano County, Wisconsin.

SECTION 2: DEFINITIONS

(A.) 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: (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, 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.

(B.) PUBLIC NUISANCE 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 (A.) of this section.

(1.) All decayed, harmfully adulterated or unwholesome food or drying sold or offered for sale to the public.

(2.) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in appropriate sanitary manner within the 24 hours after the death of such animal, bird or fowl.

(3.) Accumulation 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.

(4.) Privy vaults and garbage cans which are not fly-tight.

(5.) All noxious weeds and other rank growth of vegetation.

(6.) All animals running at large.

(7.) All abandoned wells not securely covered or secured from public use.

(8.) 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 Belle Plaine.

(C.) 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 (A.) of this section:

(1.) All signs and billboards, awnings and other structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign 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.

(3.) All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highway 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 25 feet horizontally along each street line from their intersection and within a vertical clearance of 6 feet shall be presumed to be a violation of this subsection.

(4.) All limbs of trees which project over and less than 8 feet above the surface of a public sidewalk, or 14 feet above the surface of the portion of the street, highway, or alley traveled by vehicles.

(5.) The use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.

(6.) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for an use or occupancy.

(7.) All wires over streets, alleys, highway, or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(8.) All loud, discordant, and unnecessary noises or vibrations of any kinds, which greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

(9.) The keeping or harboring of any animal or fowl which be frequently or habitually howling, yelping, barking, crowing, or making other noises which greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

(10.) All obstruction of streets, alleys, highways, sidewalks or cross walks and all excavation in or under the same, except as permitted by the ordinances of the Town of Belle Plaine or which although made in accordance with such ordinances, are kept or maintained for unreasonable or illegal length of time after the purpose thereof has been accomplished.

(11.) All open and unguarded pits, wells, excavations, or unused, basements freely accessible from any public street, alley, highway, or sidewalk.

(12.) All abandoned refrigerators or iceboxes from which the doors and other coves have not been removed or which are not equipped with a device for opening from the inside.

(13.) Repeated or continuous violations of the ordinances of the Town or Wisconsin Statutes relating to the use or storage of flammable liquids.

(D.) 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 Belle Plaine, but such enumeration shall not be construed or exclude either nuisances within the definition of subsection (A.) of this section:

- (1.) All owners of property located within a residential district of the Town of Belle Plaine who fail to keep their premises free of litter, debris, trash, or rubbish shall be in violation of this subsection.
- (2.) All property owners within the Town of Belle Plaine who allow their property to accumulate trash, litter or rubbish shall be considered to be in violation of this subsection.
- (3.) "Litter" as 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.
- (4.) "Trash" as used in this ordinance includes, but is not limited to, something or object(s) worth little or nothing or something or object(s) in a crumbled, broken or inoperable condition.
- (5.) "Rubbish" as used in this ordinance includes, but is not limited to, waste materials and refuse of every character and kind, collected and/or accumulated.

SECTION 3: JUNKED AND ABANDONED VEHICLES

(A.) JUNKED AUTOMOBILES, ETC. No disassembled, inoperable, unlicensed, junked, or wrecked motor vehicles, truck bodies, tractors, trailers, or appliances shall be stored or allowed to remain in the open upon public or private property, within the Town for a period exceeding five(5) days if upon public property, or for a period exceeding thirty (30)days if upon private property. Any business engaged in automotive sales or repair may be in such vehicles in the open, on private property for a period not to exceed one year, after which such vehicles must be enclosed by a screening or live planting.

- (1.) The phrase "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers," as used in this section is defined as follows: motor vehicles or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.
- (2.) The term "unlicensed" as referring to motor vehicles, truck bodies, tractors, or trailers as used in this ordinance shall be defined as follows: motor vehicles, truck bodies, tractors, or trailers which do not bear lawful license plates.
- (3.) The term "motor vehicle" is defined in Section 340.01(35) of the Wisconsin Statutes.
- (4.) The term "appliance" as used in this ordinance shall be defined as any stove, washer, or refrigerator which is no longer operable in the sense for which it was manufactured.

(B.) ABANDONED VEHICLES, ETC. No person shall have unattended any motor vehicle, trailer, semi-trailer or mobile home on any public street, highway, or public or private property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any street or highway or on any public or private property within the Town of Belle Plaine without the permission of the owner for a period of more than seventy-two (72) hours, the vehicle is deemed abandoned and constitutes a public nuisance.

SECTION 4. TREES AND SHRUBS

It shall be the policy of the Town of Belle Plaine to regulate and control the planting, transplanting, removal, maintenance, and protection of public and private trees and shrubs in the Town in order to eliminate and

ward against dangerous conditions which may result in injury to persons using the streets, highways, alleys, sidewalks or property of the Town; to promote the beauty and general welfare of the Town; to protect trees and shrubs located in the public areas of the Town from undesirable and unsafe planting, removal, treatment and maintenance practices; and to control the spread of tree disease.

(A.) DEFINITIONS.

(1.) Bush or shrub: a low-spreading woody plant with several permanent stems.

(2.) Tree: a woody perennial plant with one main stem or trunk having a diameter of at least two inches, one foot above the ground, and which is capable of attaining a height in excess of ten feet above the ground.

(3.) Public trees and shrubs: all trees or shrubs planted or to be on any park or other property owned or controlled by the Town or on any street, highway, alley, sidewalk within the public right-of-way, including terrace trees and shrubs, but excluding school sites.

(B.) No person shall plant any bush, shrub or tree in any public easement, street, road, alley, highway or terrace.

(C.) TRIMMING. The owner or occupant of any private property shall keep all trees standing on such property so trimmed that no bough or branch thereof shall hang lower than eight (8) feet above the surface of a public sidewalk or fourteen (14) feet above the surface of the street, highway, alley travelled by vehicles. Shrubs shall be trimmed so that they do not overhang any street, alley, highway, or sidewalk. The owner or occupant of any private property shall remove or cause to be removed any dead tree or dead or broken bough or branch on a tree standing on such private property and overhanging any public street, road, alley, sidewalk, or highway.

(D.) DAMAGE TO TREES AND SHRUBS ON PUBLIC PROPERTY. No person shall maliciously injure any trees growing on any public street, road, alley, or highway or impede the free passage of water or air to such trees. Similar provisions apply to trees and shrubs located on public parks and other public property.

(1.) No person shall remove or cause to be removed any tree or shrub from any public property.

(2.) The owner or occupant of any private abutting on any public property may himself maintain and protect any tree standing on such public property at his or her own risk and where no objection has been voiced by any Town Board Supervisor or Chairperson, providing in doing so there is compliance with provisions of this Ordinance.

SECTION 5. ABATEMENT OF PUBLIC NUISANCES

(1.) Inspection of premises. Whenever complaint is made to the Town Chairman or to Town Enforcement Officer that a public nuisance exists within the Town of Belle Plaine the enforcement officer shall promptly and forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Town Chairman. Whenever practicable, the Town Enforcement Officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

(2.) Summary Abatement.

(a.) Notice to Owner. If the Enforcement Officer shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Chairperson may direct the enforcement officer to serve a notice upon a person causing, permitting, or maintaining such nuisance, whether an owner or occupant of the premises where such nuisance is caused, permitted, or maintained. If immediate personal service can not be made, a copy of such notice shall be posted on the premises in a location likely to

attract the attention of the owner or occupant thereof, as well as direct mail notice to the last known owner of said property. Such notice shall direct the person causing, permitting, or maintaining such nuisance, or the owner or occupant of the premises to abate and remove such nuisance within 24 hours. The notice shall state that unless such nuisance is so abated, the Town may cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance.

(b.) Abatement by Town. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Enforcement Officer in the case of health nuisances and other cases shall cause the abatement or removal of such public nuisance.

(3.) Abatement By Court Action. If the Enforcement Officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Town Chairman who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Shawano County in accordance with the provisions of Chapter 23 of the Wisconsin Statutes. In the alternative, the Chairperson may direct the Enforcement Officer to issue one or more citations for each day of violation for a said time period, and to report back whether compliance has occurred.

(4.) Other Methods Not Excluded. Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Belle Plaine or its officials in accordance with the laws of the State of Wisconsin.

SECTION 6. 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 abatement of any public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting, or maintaining the nuisance. If notice to abate the nuisance has been given to the owner previously, such cost shall be assessed against the real property where such violation occurred as a special charge unless paid earlier.

SECTION 7. ENFORCEMENT PROVISIONS

(1.) First Offense/Penalty Any person who shall violate this subsection, shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) and no more than Two Hundred Dollars (\$200.00) together with the cost of prosecution and in default of payment of such forfeiture and cost of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid but not exceeding 90 days.

(2.) Second Offense/Penalty Any person guilty of violating this subsection or any part of this subsection who shall previously have been convicted of violation of the same ordinance or subsection shall upon conviction thereof forfeit not less than \$10.00 nor more than \$400.00 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and the cost shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid but not to exceed six (6) months.

(3.) Each day of violation of this ordinance shall constitute a separate offense.

(4.) This Ordinance may be enforced by the citation procedure as authorized by Ordinance No. 26. The following bond schedule is hereby established for use of citation pursuant to this Ordinance.

First violation of the
Public Nuisance Ordinance


1st \$50 plus court costs.

Second violation of the
Public Nuisance Ordinance

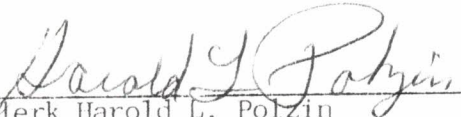
2nd \$75 plus court costs.

Passed November 2, 1992.


Chairperson Alvin Bartz


Supervisor J. C. Eckers


Supervisor Martin Hesse


Clerk Harold L. Polzin