

TOWN OF ALBION ORDINANCE NO. 99-1

AN ORDINANCE TO REGULATE, CONTROL AND PREVENT PUBLIC NUISANCES

I Authority

The Town Board of the Town of Albion has specific statutory authority pursuant to the specific statutory sections noted in this chapter and/or by its adoption of village powers under Sec. 60.10, Wis. Stats. and Sec. 60.22(3), Wis. Stats., and its police powers, to regulate, control, prevent and enforce against in the Town of Albion certain uses, activities, businesses and operations by persons that may cause a public nuisance in the Town of Albion.

II Public Nuisances Prohibited

No person shall cause, allow or permit any person to create any public nuisance in the Town of Albion.

III Public Nuisances Defined

A public nuisance is a thing, act, failure to act, occupation, or use of property which:

- A) **ENDANGERS SAFETY.** Shall unreasonably annoy, injure, or endanger the safety, health, comfort or repose of any person.
- B) **INSECURE IN LIFE OR USE OR PROPERTY.** Shall in any way render any person insecure in life or in use of property.
- C) **ABANDONED VEHICLES.** Shall be the keeping of a vehicle that is unregistered, inoperable, or unused, except as allowed by this ordinance.

IV General Provisions

- A. **PUBLIC HEALTH NUISANCES-** No person shall cause, allow or permit any person to create any public nuisance areas on premises owned, leased or controlled by that person in the Town of Albion. The following are specifically declared by the Town of Albion to be public health nuisances. **THIS DECLARATION SHOULD NOT BE CONSTRUED TO EXCLUDE OTHER PUBLIC NUISANCES AFFECTING PUBLIC HEALTH, SAFETY OR WELFARE IN THE TOWN OF ALBION.**

1. **DECAYED FOOD.** All decayed or unwholesome food offered for sale to the public.
2. **STAGNANT WATER.** All ponds, pools of water, or vessels holding stagnant water in which mosquitoes can breed
3. **BREEDING PLACES FOR VERMIN AND INSECTS.** 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. **CARCASSES.** An unburied animal carcass area where a dead animal or dead animals are not buried in a sanitary manner within 12 hours of death.
5. **WASTE ACCUMULATION.** Accumulation of waste in excess of a normal and reasonable two (2) week accumulation.
6. **WATER POLLUTION.** The pollution of any public well or cistern stream or body of water by sewage, creamery or industrial wastes, or other substances.
7. **WELL POLLUTION.** The pollution of any private or shared well, where pollution from the premises entering the ground water has caused a private or shared well on another property to become contaminated.
8. **NOXIOUS ODORS.** Any use of property, substances or things within the Town of Albion emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of people within the Town of Albion. Not included in the definition of "noxious odor" is ordinary and necessary odors associated with a farming operation provided that such operation is conducted in accordance with generally recognized and accepted farming practices.
9. **DANGEROUS BUILDINGS.** A dangerous building area where the building, structure, place or the electrical, heat or water supply is in a condition and location to cause a menace or danger to the public health or person in the Town of Albion.
10. **IMPROPER SEWAGE.** An improper sewage area where the effluent from the sewer, septic tank, holding tank or cesspool on the premises is in a condition and location to cause a menace or damage to the public health of persons of the Town of Albion.
11. **OTHER CONDITIONS AFFECTING PUBLIC HEALTH.** Any other conditions which create an unreasonable danger to the public health if allowed to continue.

B. PUBLIC SAFETY NUISANCES- No person shall cause, allow or permit any person to create any public nuisance areas on premises owned, leased or controlled by that person in the Town of Albion. The following are specifically declared by the Town of Albion to be public safety nuisances. **THIS DECLARATION SHOULD NOT BE CONSTRUED TO EXCLUDE OTHER PUBLIC NUISANCES AFFECTING PUBLIC SAFETY IN THE TOWN OF ALBION.**

1. **ABANDONED OR WRECKED MOTOR VEHICLES.** Abandoned or wrecked motor vehicle area where motor vehicles, tractors, house trailers, railroad cars and semi-trailer boxes are allowed to remain without proper a junkyard permit issued by the Town of Albion.
2. **UNSAFE STRUCTURES.** A dilapidated building area where old or dilapidated buildings, structures and equipment are allowed to stand while they are dangerous, unsafe, unsanitary, inhabitable or otherwise unfit for human use and occupancy.
3. **DANGEROUS TREES AND LIMBS.** A dangerous tree area where trees and limbs are in a condition and location to cause a menace or danger to public safety to persons in the Town of Albion.
4. **ILLEGAL BUILDING AREAS.** An illegal building area where buildings were constructed, repaired, expanded or altered illegally in violation of any Town of Albion, or County of Dane ordinances or State and federal laws.
5. **IMPROPER INSTALLATION OF SIGNS AND BILLBOARDS.** An improper structure area where signs, billboards, awnings and other structures are improperly, illegally or unsafely installed or maintained near public highways, road, streets, sidewalks, parks, public buildings, public premises or other public places in a condition and location to cause a menace or danger to public safety in the Town of Albion.
6. **LOUD NOISE.** A loud noise area where loud, discordant and unnecessary sounds including, but not limited to the sounds of motor vehicles, animals, or music repulsive to the senses of an ordinary person are allowed to continue the substantial annoyance of substantial discomfort or persons or injury to persons or property in the Town of Albion.
7. **UNAUTHORIZED TRAFFIC SIGNS.** An unauthorized traffic sign area where unauthorized signs, signals, marking or other sign devices are installed or maintained near a public highway, road, street, alley or railroad crossing and which they purport to be or can be mistaken for an official sign or other traffic control device or which because of their location, color, manner of operation or structure they will interfere with any official traffic control device in the Town of Albion.

8. **OBSTRUCTION OF VISION.** An obstruction area where structures, hedges, trees, weeds, signs, billboards, buildings or equipment are installed or maintained near a public highway, road, street, alley or railroad crossing and due to the condition and location block a clean view of traffic that causes a menace or danger to public safety of persons in the Town of Albion.
 9. **SEMI-TRAILER BOXES.** One or more semi-trailer boxes, whether with wheels off or on, not used regularly to haul cargo over the road unless the premises is zoned to allow such.
 10. **IMPROPER DUMPING.** No person or company shall dump or cause to be dumped litter, garbage or other debris on the property of another without consent of the property owner. With the consent of the owner, no dumping shall take place that is contrary to this or any other Albion Township Ordinance, Dane County Ordinance or Wisconsin State Statute.
 11. **OTHER CONDITIONS AFFECTING PUBLIC SAFETY.** Any other conditions which create an unreasonable danger to the public safety if allowed to continue.
- C. **SEPTIC MATERIAL.** No person in the Town of Albion shall cause, allow or permit any person to keep on premises owned, leased or controlled by that person any deleterious or septic material, unless the material is kept in proper containers which will prevent access to humans, flies, insects, vermin and other animals.
- D. **OBJECTIONABLE VEGETATIVE COVER AND NOXIOUS WEEDS.** Every owner or occupant of any premises in the Town of Albion shall destroy or mow any growth of ground cover or weeds as described below. Noxious weed exceeding 12 inches shall be cut or mowed in any area in the Town of ALBION.
1. **YARDS AND LAWNS.** Every owner or occupant of any premises in the Town of Albion, having a lawn, shall cut and maintain such lawn at a height not to exceed 6 inches.
 2. **NOXIOUS WEEDS.** Noxious weed exceeding 1 foot shall be cut or mowed in any area in the Town of Albion. Weeds for the purposes of this section shall include Canada thistle, leafy spurge, field bindweed, (creeping Jenny) and such other rank vegetable growth which exhales unpleasant or noxious odors and any other vegetation commonly known as weeds.
- E. **ACCUMULATION OF DEBRIS.** No person in the Town of Albion shall cause, allow or permit any person to allow the premises owned, leased or controlled by that person to become dangerous, unsafe, unsanitary, foul, a fire menace or public hazard by:

1. Allowing trash, debris, old lumber, furniture, freezers, stoves, refrigerators, or other appliances, junk motor vehicles or waste to accumulate outside a permanent, enclosed structure on the premises for more than fifteen (15) consecutive days in any calendar year.
2. Allowing explosives on the premises without approval of the Town Board of the Town of Albion.
3. Allowing unauthorized disposal, storage, treatment or recycling of waste on the premises without the appropriate approvals from the State of Wisconsin, the Town of Albion and the County of Dane.
4. Allowing any motor vehicle to be abandoned on any public highway, road, street or alley for more than two (2) consecutive days in any calendar year.

F. **STORAGE OF NONREGISTERED, UNUSED OR ABANDONED MOTOR**

VEHICLES: No person owning or having custody of any motor vehicle that does not have valid current registration, is inoperable, or unused, shall allow such vehicle to remain on any public street or grounds longer than 48 hours or upon private property longer than Ten (10) days after notification thereof by the Town of Albion Constable, his designee or the Town Board. Notification shall be accomplished by placing in a conspicuous place on the vehicle a dated notice, which shall be red in color, and by mailing or serving upon the owner or occupant in charge of the premises a dated written notice bearing the same date as the red notice setting forth briefly the applicable provisions of this subsection. The red notice shall read as follows: "WARNING. This vehicle is declared to be a public nuisance, if not removed and it may be removed and disposed of by the Town of Albion all as provided in the Ordinances of the Town of Albion. You must remove this vehicle from this location so as to make it in compliance with local Ordinance within: (either 48 hours or ten days, depending on its location). Any vehicle so tagged which is not removed within the appropriate amount of time, (48 hours if upon any public street or grounds or within ten (10) days if upon private property) is declared to be a public nuisance and may be removed and disposed of as provided in this chapter.

No person, after notification to remove any abandoned, inoperable or non registered motor vehicle from any private property pursuant to this section, shall move the same to any other private property upon which such storage is not permitted or onto any public highway or other public property so as to again make the vehicle in violation of this chapter. Whenever the Town of Albion Constable shall find or be notified that any such vehicle has been so removed, the time periods as originally provided for herein as applicable to the first location of the subject vehicle which first required the dated notice shall continue to apply notwithstanding such removal. In addition, such removal shall constitute a separate offense under this chapter.

- I. **Exemptions:** Section IV F. shall not apply to a motor vehicle in an enclosed building; a vehicle in an appropriate storage place or depository maintained in a lawful place and

manner authorized by Ordinances of the Town of Albion.

2. **Definitions:** As used in this chapter;

a. **"Vehicle" or "Motor Vehicle"** means a motor vehicle, motor truck, automobile, motor bus, motor cycle, motorized scooter, station wagon, truck tractor, semi-trailer but does not mean a currently registered motor home, snowmobile, or boat.

b. **Abandonment of Vehicles Prohibited.** No person shall abandon any vehicle within the Town of Albion for such a time and under such circumstances as to cause the vehicle to reasonably appear to be abandoned.

c. **Presumption of Abandonment.** Any vehicle left unattended for more than 48 hours on any public street or grounds, or for more than ten (10) days on private property is deemed to be abandoned and constitutes a public nuisance after notification thereof by the Town of Albion Constable, or the Town Board; provided that the vehicle shall not be deemed to be abandoned under this section if left unattended on private property out of public view, by permission of the owner or lessee.

3. **Abatement:**

a. **Removal and impoundment for sale.** Any vehicle in violation of this section and deemed a public nuisance pursuant to this ordinance shall be impounded by the Town of Albion until lawfully claimed or disposed of as provided in this Section. If the Town of Albion Constable or the Town Board reasonably determines that the towing costs and storage charges for the ten (10) days, paragraph 3b, below, would exceed the value of the vehicle, the vehicle may be junked or sold prior to the expiration of the impoundment period upon the determination by the Township that the vehicle is not wanted for evidence or any other reason; provided that if the vehicle is in excess of 19 model years of age it shall be sold or disposed of only by auction, sale or sealed bid in accordance with paragraph 3d, below.

b. **Minimum Impoundment Period.** The minimum period of impoundment or storage of a vehicle found in violation of this section shall be ten (10) days.

c. **Notice To Owner.** The Town official removing or causing the removal of any vehicle found in violation of this section shall immediately notify the Town Constable or Town Board of the abandonment and location of the vehicle, and as soon as practicable but not more than ten (10) days thereafter notify the owner and lien holders of record, by certified mail, of the impoundment and of their right to reclaim the vehicle. The notice shall set forth the information contained in Section 342.40(3) of the Wisconsin Statutes, and shall state that the failure of the owner or lien holder to exercise their rights to reclaim the vehicle shall be deemed a waiver

of all rights, title and interest in the vehicle and a consent to sale of the vehicle.

- d. **Sale.** Each retained vehicle not reclaimed by the owner or lienholder may be disposed of by sealed bid or auction sale as provided in Section 342.40(3) of the Wisconsin Statutes.
- e. **Sale to Bar Claims Against Vehicle.** The sale of a motor vehicle under the provisions of this section shall forever bar all prior claims thereto and interest therein except as hereinafter provided.
- f. **Purchaser to Remove Vehicle.** The purchaser of any vehicle on sealed bid or auction shall have ten (10) days to remove such vehicle from storage area upon payment of storage fees which shall be assessed beginning the second day after the sale date. Ten 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 again sold.
- g. **Request for List.** Any listing of vehicles to be sold pursuant to this section shall be made available by the Clerk to any interested person or organization who makes a written request therefore, for a fee of ten (\$10) dollars.
- h. **Notice to Department.** Within five (5) days after the sale or disposition of a vehicle under this section, the Town Clerk shall advise the Wisconsin Department of Transportation of such sale or disposition on a form supplied by the department.
- i. **Owner May File.** At any time within two (2) years after the sale of a motor vehicle as provided herein, any person claiming ownership of such a motor vehicle or a financial interest therein may present a claim to the Town of Albion Board setting forth such facts as are necessary to establish such ownership or interest, and that the failure of the claimant to reclaim the vehicle prior to the sale was not the result of the neglect or fault of the claimant. If the Town Board is satisfied as to the justice of such claim, it may allow the same but in no case shall the amount allowed exceed the sum paid to the Town treasury as the result of the sale of such motor vehicle, nor the amount of interest of the claimant therein.
- j. **Exemption.** Any owner or person operating a registered vehicle which shall become disabled or inoperative for any reason, and who shall be unable to cause removal of such vehicle from any alley, street, highway or public place, not otherwise regulated as a restricted parking, stopping or standing zone, shall within 12 hours of such occurrence, notify the Town of Albion Constable or the Town board of the location of the vehicle and shall transfer and deliver clear title for said vehicle to the Town together with a fee of ten (\$10) Dollars to offset the cost of towing and junking charges and shall be exempt from the provisions of this subpart.

When so requested by the owner or person in charge of a vehicle the Town of Albion Constable or Town of Albion Board shall be authorized to order such vehicle removed and junked directly from the scene of disablement by the contractor engaged by the Town for towing of disabled vehicles.

- k. **Incorporation of Wisconsin law.** Sec. 342.40, Wis. Stats, and any amendment thereto, is incorporated by reference herein. If any provision of this ordinance conflicts with such statute, the statutory language shall be deemed to control and is made part of this ordinance.

- l. **Penalty.**

In addition to abatement, as provided for in Section IV. F. 3., above, any person or entity violating any provision of Section IV. F. of this Ordinance shall forfeit not less than fifty (\$50) dollars nor more than five hundred (\$500) dollars for each violation, together with the court costs and the costs of prosecution. Each day's continuance of any violation shall constitute a separate violation. The imposition of one penalty for any violation of this ordinance shall not excuse the violation or permit it to continue; and all persons and entities on whom a penalty is imposed shall correct or remedy such violations or defects forthwith.

The application of the above penalty shall not prevent the enforced removal of prohibited conditions and obtaining injunctive relief.

V Penalties

The following penalty provisions apply to violations of this Ordinance, other than violations of the provisions of Section IV.F.

- A) **FORFEITURE.** Any person or entity violating any provision of Section IV.A. through E. of this Ordinance shall forfeit not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each violation, together with the court costs and the costs of prosecution. If the violation shall continue for more than one (1) day, each day shall constitute a separate offense.
- B) **ABATEMENT OF PUBLIC NUISANCES.** In addition to, or instead of, the imposition of a forfeiture, the Town of Albion may abate a public nuisance if the Town of Albion constable reasonably believes, after inspection, that a nuisance exists and that there is a great and immediate danger to the public health, safety, or peace. If the constable makes such determination, he shall report such to the Town Board Chairman; the Chairman may then direct the Town Constable to cause the nuisance to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining a nuisance.

If the Town Constable determines that a nuisance exists, but that it is not such as to threaten great and immediate danger to the public health, safety or peace, the Constable shall serve notice on the person causing or maintaining the nuisance to remove the same and/or cease or desist the offending conduct within ten (10) days or that nuisance may be summarily abated, as provided above.

- C) **COURT PROCEEDING.** Except where abatement is necessary to abate a nuisance constituting great and immediate danger to the public, force may not be used to obtain access to private property to abate a public nuisance; permission shall be requested of the owner or occupant of the private property to enter thereon to abate such nuisance and, if permission is denied, the Town Constable shall apply to any Court having jurisdiction for an order of abatement permitting the Town to enter upon private property in order to abate such nuisance, and, if appropriate, injunctive relief.

- D) **COST OF ABATEMENT.** The cost of abating a public nuisance shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and, if notice to abate the nuisance has been given to the owner of real property where the nuisance exists, such cost shall be assessed against the real estate as a special assessment.

The above and foregoing ORDINANCE was duly adopted by the Town Board of the Town of Albion, Dane County, Wisconsin, at its regular meeting held at the Albion Town Hall on the 5th day of October, 1999.

APPROVED: Roger J. Olson, Chairman
Roger J. Olson

ATTEST: Virginia L. Anderson, Clerk
Virginia L. Anderson

ADOPTED: Supervisor, Broughton introduced the above Ordinance and moved its passage. Seconded by Dave Anderson.

Roll Call: 5 yes 0 no

Posted: September 8, 1999, September 29, 1999
Published: September 22, 1999