

**TOWN OF BUFFALO
Marquette County
State of Wisconsin**

ORDINANCE

CHAPTER 9

**AN ORDINANCE REPEALING AND RECREATING THE
ORDINANCE ENTITLED “HEALTH AND SANITATION”**

November 15, 2006

The Town Board of the Town of Buffalo, Marquette County, Wisconsin, does ordain:

- A. That Chapter 9 of the General Code of Ordinances, entitled "Health and Sanitation" be and the same hereby is repealed; and
- B. That Chapter 9 of the General Code of Ordinances, entitled "Health and Sanitation ", be and the same is hereby recreated to read as follows:

Sec. 1.	TITLE/PURPOSE
Sec. 2.	FINDINGS
Sec. 3.	AUTHORITY
Sec. 4.	ADOPTION OF ORDINANCE
Sec. 5.	DEFINITIONS
Sec. 6.	PUBLIC NUISANCES PROHIBITED
Sec 7.	EXEMPTIONS
Sec. 8.	PENALTY PROVISION
Sec. 9.	SEVERABILITY
Sec.10.	EFFECTIVE DATE

SECTION 1 – TITLE/PURPOSE

The title of this ordinance is the Town of Buffalo Health and Sanitation Ordinance. The purpose of this ordinance is for the Town of Buffalo to regulate and prohibit certain acts regarding junkyards, tires, littering, dumping, and noxious weed control in the Town Buffalo.

SECTION 2 - FINDINGS

The town has found it necessary to regulate by ordinance the storage and disposal of automobiles, tires, junk and miscellaneous waste due to the fact that there has been a proliferation of unlicensed junkyards, tire piles and dumps of miscellaneous materials within the town. The proliferation presents a threat to the public health and safety of the citizens of the town and to the natural environment and property values of the town. The provisions of this article are adopted pursuant to the authority granted to the town by Wis. Stats. §§ 59.55(5), 59.70(1), 59.54(21), 84.31(2)(b), (9), 175.25, and 342.40. Sections 6.E.7, 6.E.8 and 6.E.9 shall not apply to farm machinery which is located on a bonafide, operating farm.

SECTION 3 – AUTHORITY

- A. The Town Board has been empowered to exercise the powers relating to villages and conferred on village boards by resolution duly adopted at an annual town meeting pursuant to §60.18(12), Wis. Stats.
- B. Village boards are empowered to act for the health, safety, welfare and convenience of the public pursuant to §61.34, Wis. Stats.

- C. The Town Board of the Town of Buffalo has authority under Village powers acquired pursuant to §§60.18(12) and 60.29(13) to enact ordinances defining and prohibiting public nuisances.
- D. It is in the interests of public health, safety and welfare that certain objects, conditions, acts, occupations or uses of property be defined as public nuisances and regulated or proscribed.
- E. With reference to abandoned vehicles the Board finds that the abandonment of vehicles in the Town of Buffalo poses a hazard and nuisance for private and public property owners in the Town of Buffalo;
- F. Any municipality may enact ordinances governing the removal and disposal of abandoned vehicles and provide a forfeiture in addition to providing for the recovery by the municipality of the cost of impounding and disposing of the vehicles pursuant to §342.40(3), Wis. Stats.

The Town Board of the Town of Buffalo has the specific statutory authority, powers and duties, pursuant to the specific statutory sections noted in this ordinance and/or by its adoption of village powers to regulate, control, license, register or permit in the Town of Buffalo persons engaged in certain uses, activities, businesses and operations at certain locations in the Town of Buffalo, to assess these persons with appropriate fees for the licenses, registrations or permits as noted herein and to enforce, by revocation or penalty, the provisions of these ordinances and the provisions of the licenses, registrations and permits.

The Town Board of the Town of Buffalo has the specific authority under s. 175.25, Wis. stats. and general authority under its village powers to adopt this ordinance.

State law reference(s)--Regulation of junkyards generally, Wis. Stats. § 84.31; junked or junk vehicle defined, Wis. Stats. § 340.01(25g), (25j). Noxious Weeds, Wis. Stats. §66.0407, 66.0517.

SECTION 4 – ADOPTION OF ORDINANCE

The town board of the Town of Buffalo, by this ordinance, adopted with a quorum and by a roll call vote by a majority of the town board present and voting, provides the authority for the town to regulate prohibited acts regarding junkyards, tires, littering, dumping, and noxious weed control in the Town of Buffalo.

SECTION 5 – DEFINITIONS

- A. Abandon means to leave without claimed ownership for 30 days or more.
- B. Abutting property owner means any person or persons, corporation or other entity that owns, leases, or in any other way uses or controls the real property abutting any portion of the property of another.
- C. Bonafide, operating farm (as provided in s. 91.01 (1), Wis. Stats) - Means 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 thirty five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk conservation reserve program under 7 USC 1446(d); and vegetable raising.

- D. Compost means the decomposed remnants of organic materials (those with plant origins). When used in gardening and agriculture as a soil amendment, or commercially by the landscaping and container nursery industries, compost composting and compost bins are allowable under this ordinance.
- E. Disabled vehicle means any motor vehicle which is not capable of travel under its own power, which remains stationary and unused in a state of disrepair for a period of thirty (30) days or is in the process of being scrapped for parts.
- F. Dump means to throw, discard, place, deposit, discharge, bury, burn, or dispose of a substance.
- G. Garbage includes kitchen, fruit and table refuse, offal, any decaying vegetable matter and all substances which attend the cooking, serving, dealing in, processing or storage of meats, fowl, fruits, vegetables or other food products.
- H. Highway means any highway, road, street, or other public way, regardless of classification.
- I. Household appliance means any range, stove, refrigerator, washing machine, clothes dryer, water pump, power tool and the like.
- J. Junk Parts means scrap metal, metal alloy, wood, concrete, synthetic or organic material or waste, 10 or more tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any junked, ruined, dismantled, wrecked, unlicensed, unregistered, or inoperative motor vehicle or machinery, or any part thereof. This definition of junk includes used tires, parts of dismantled buildings, as well as parts of buildings or other structures. Any of the above items used in a bona fide agricultural operation are excluded from this definition.
- K. Junk Motor Vehicle means a motor vehicle that is incapable of operation or use upon a highway and that has no resale value except as a source of parts or scrap or a vehicle that an insurance company has taken possession of or title to if the estimated cost of repairing the vehicle exceeds its fair market value.
- L. Junkyard means any place maintained, owned, operated or used for the storage, keeping, processing, buying or selling of junk, refuse or solid waste of any kind. Junkyard also means any place of outdoor storage or deposit, not in connection with a business, which is maintained or used for storing or keeping 4 (four) or more junk motor vehicles that are visible from any portion of a public highway. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.
- M. 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.

- N. Motor Vehicle means a vehicle, including a combination of 2 or more vehicles or an articulated vehicle that is self-propelled except a vehicle operated exclusively on a rail, with or without a current registration issued by the State of Wisconsin or other state to the owner of the vehicle.
- O. Noxious weed means Canada thistle, leafy spurge and field bindweed (creeping Jenny) and any other weed the Town of Buffalo Town Board declares to be noxious within its municipal boundaries.
- P. Offal is the entrails and internal organs of a butchered animal. The word does not refer to a particular list of organs, but includes most internal organs other than muscles or bones. For purposes of this ordinance, offal is considered as waste material that is thrown away.
- Q. 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; or
 2. In any way render the public insecure in life or in the use of property; or
 3. Greatly offend the public morals or decency; or
 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; or
 5. 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.
- R. 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.
- S. Scrap Tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
- T. Solid waste means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food wastes and other organics, boxes, barrels and other containers, tires and other like materials.
- U. Town means the Town of Buffalo, Marquette, County, Wisconsin.
- V. Town board means the board of supervisors for the Town of Buffalo, Marquette County, Wisconsin and includes designees of the board authorized to act for the board.
- W. Town clerk means the clerk of the Town of Buffalo, Marquette County, Wisconsin.
- X. Trash means any waste materials; junk, refuse or discarded items; rubble; scrap building materials; scrap wood, tree limbs, leaves and similar plant materials; disabled vehicles; or any abandoned item of personal property.
- Y. Traveled way means that portion of a public highway designed for the movement of a motor vehicle, shoulders, and roadside parking, rest, observation areas, and other areas immediately adjacent and contiguous to the traveled portion of the roadway.

- Z. Visual blight means an unsightly condition which degrades the physical appearance of a property or properties, thus adversely affecting the well-being and values of the surrounding neighborhood.
- AA. Weeds means any noxious, troublesome and valueless plants as declared by the State of Wisconsin.
- BB. Wis. stats. means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION 6 – PUBLIC NUISANCES PROHIBITED

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; or
2. In any way render the public insecure in life or in the use of property; or
3. Greatly offend the public morals or decency; or
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; or
5. 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.

B. **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 (A) of this section:

1. 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.
2. 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.
3. Privy vaults and garbage containers which are not fly-tight.
4. 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 Buffalo.

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 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.
2. 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.
3. 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.
4. 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.
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 human use or occupancy.
7. All wires over streets, alleys, highways, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
8. 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 Buffalo 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.
9. 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.
10. Repeated or continuous violations of the ordinances of the Town of Buffalo 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 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 owners of property located within a residential district of the Town of Buffalo who fail to keep their premises free of litter, debris, trash, or rubbish shall be in violation of this subsection.
2. No person owning, leasing, occupying or having charge of any property in the Town of Buffalo 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: Lumber, junk, trash, debris or litter;
3. Abandoned, discarded or unused objects or equipment such as 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 for a period of thirty (30) days or more within the Town of Buffalo 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 Buffalo 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 municipal boundaries of the Town, or otherwise to remove it to a location without said municipal boundaries.
4. Littering on public property. It shall be unlawful for any person to dump, throw, deposit or place any garbage, fill material, construction debris, scrap tires or trash upon the streets, or other public places located within the Town or upon any property owned or leased by the Town, except on designated waste disposal sites and except as otherwise provided in this Section.
5. Dumping or littering on property of another. It shall be unlawful for any person to dump, throw, deposit or place any garbage or trash upon the property of another person or in any trash receptacle of another person without the consent of the person in charge or control thereof. Nothing contained in this Section shall be construed to prohibit the use of trash receptacles provided by the Town for public use, or recycling receptacles at pre-designated recycling sites. It shall be unlawful for any person to deposit large quantities of garbage or trash in Town-owned trash

receptacles without prior approval. For purposes of this Subsection, large quantities shall mean anything larger than a standard grocery bag.

6. Dumping in stream, river or riverbank area. It shall be unlawful for any person to dump, throw, deposit or place any garbage, fill, construction debris or trash, whether manmade or natural, on private or public property in a stream, river or riverbank area unless otherwise permitted in this Ordinance. For purposes of this Section, the term banks shall be defined to include:
 - a. A thirty-foot setback area measured horizontally from the high-water mark of the stream or river; and
 - b. Any land area with a slope in excess of two (2) feet horizontal to one (1) foot vertical lying contiguous to the high-water mark of the river or stream, excepting manmade benches or ten-foot width or less; and
 - c. A five-foot setback area measured horizontally from the top of any slope as described in Subparagraph (2) above.
7. No person may accumulate or store any junked motor vehicle or junk parts within 500 feet of the center line of any town highway in the town, or within 875 feet of the center line of any county trunk, state trunk, or federal highway.
8. A properly and fully installed and maintained building, as determined by the town board, must effectively screen all junked vehicles and junk vehicle parts from public view.
9. Junkyards prohibited. It shall be unlawful for any person to maintain, operate or keep within the Town any junkyard or other place for the purpose of the junking of motor vehicles or the storage of junk or parts resulting from such operation, or for the storage of vehicles which are to be junked. This subsection shall not apply to a business conducted wholly within a building nor to the sale of used motor vehicles.
10. Scrap Tires. It shall be unlawful for any person in the Town to accumulate more than five (5) scrap tires on or around property, which they own or occupy. Scrap tires must be stored in covered or enclosed areas, or under an impermeable cover to prevent the accumulation of water.

F. Noxious Weed Control.

1. The Town Clerk shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the Town of Buffalo which he owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.

2. If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the Town shall give five (5) days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner after the expiration of the five (5) day period will proceed to destroy or cause to be destroyed all such weeds growing upon said lands and that the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of the Wisconsin Statutes. In case the owner or occupant shall further neglect to comply within such five (5) day notice, then the Town Board shall destroy such weeds or cause them to be destroyed in the manner deemed to be the most economical method and the expense thereof, including the cost of billing and other necessary administrative expenses, shall be charged against such lots and be collected as a special tax thereon.
 - a. As provided for in Wisconsin Statutes, the Town shall require that all noxious weeds shall be destroyed prior to the time in which such plants would mature to the bloom or flower state.

SECTION 7 – EXEMPTIONS

Any person with 3 (three) or less junked motor vehicles owned or controlled by that person and stored on the premises in a properly and fully installed and maintained building owned or leased by that person in the town, where the vehicles are not registered by the State of Wisconsin or any other state, shall be exempt from this ordinance. This ordinance shall not apply to farm machinery which is located on a bonafide, operating farm, provided the farm machinery is needed for farming operations.

SECTION 8 – PENALTY PROVISION

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

SECTION 9 – SEVERABILITY

Each of the provisions of the ordinance is severable and if any provision is held invalid for any reason, the remaining provisions shall not be affected but shall remain in full force and effect.

SECTION 10 – EFFECTIVE DATE

This Ordinance is effective November 15, 2006.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 10th day of October 2006.

Effective Date: November 15, 2006

Gene R. Mucciolo, Chair

Jan Banicki, Supervisor

Fred Wollenberg, Supervisor

Attest: _____
Donna Seddon, Town Clerk