

ORDINANCE No. 4-6-05

TOWN OF SARATOGA  
DEFINING AND PROHIBITING  
PUBLIC NUISANCES

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 Saratoga has power under Village Powers pursuant to the Section 60.22(3), to enact ordinances defining and prohibiting public nuisances,

NOW THEREFORE, Town Board of Supervisors of the Town of Saratoga, Wood 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 Saratoga, Wood County, Wisconsin.

SECTION 2: DEFINITION

SUBSECTION 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:

- a. Substantially annoy, injure or endanger the comfort, health repose or safety of the public.
- b. In any way render the public insecure in life or in the use of property.
- c. Greatly offend the public morals or decency.
- d. 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.

SUBSECTION 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:

- a. All decayed, harmfully adulterated or unwholesome food offered for sale to the public.

- b. 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 24 hours after the death of such animal, bird, or fowl.
- c. Accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires, or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- d. All abandoned wells not securely covered or secured from public use.
- e. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, or any waterway of public place within the Town of Saratoga.
- f. Noises or odors emanating from a property that substantially interfere with surrounding landowners' use and enjoyment or their property.

#### SUBSECTION 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 provision of subsection a. of this section:

- a. All wells, excavations, or unused basements freely accessible from any town road.

#### SUBSECTION 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 Saratoga; but such enumeration shall not be construed or exclude either nuisances within the definition of subsection a. of this section:

- a. All owners of property located within the Town of Saratoga who fails to keep their premises free of litter, debris, trash, or rubbish shall be in violation of this subsection.
- b. All property owners within the Town of Saratoga who allow their property to accumulate trash, litter or rubbish shall be considered to be in violation of this subsection.
- c. "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.
- d. "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.

- e. "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.

### SUBSECTION 3: JUNK VEHICLES

#### SUBSECTION A: Junk, Etc., Vehicles Prohibited

Except as otherwise indicated in this ordinance, no person or persons, association, partnership, firm or corporation, who owns or has authority over or authority to control, one or more wrecked, or partially dismantled, or disabled motor vehicles, or parts of such vehicles, or motor vehicle truck bodies, tractors or trailers which do not bear lawful license plates or have current registration shall allow such a vehicle, or such parts, to be stored out of doors on any real estate located within the Town of Saratoga, either temporarily, irregularly, or continually for more than 30 days.

#### SUBSECTION B: Definitions

- a. "Wrecked or disabled motor vehicles" are motor vehicles in such physical or mechanical condition as to be incapable of self-propulsion when same is ordered to be moved, or, if capable of self-propulsion when ordered to be moved cannot lawfully be operated in its then existing condition upon public streets.
- b. "Motor vehicle" includes motorcycles, cars, vans, trucks, snowmobiles, semi-trailers, motor homes, buses, or any other vehicles customarily operated on a public street and may or may not be required to be licensed by the state.
- c. "Unlicensed" refers to motor vehicles, truck bodies, tractors or trailers, which do not bear lawful license plates or have a current vehicle registration.

#### SUBSECTION B.1: Control Defined

The right to exercise a directing or governing influence over a thing, place, or object.

#### SUBSECTION C: Penalties

See Section 7 entitled "ENFORCEMENT PROVISIONS".

#### SUBSECTION D: Exemptions From Ordinance

Upon request, the town board may exempt the following commercial businesses from this ordinance by issuing a qualified exemption permit, subject to the conditions as set forth below:

- a. Motor vehicles repair facilities
- b. Antique or restoration businesses
- c. Property being temporarily used by a person transporting motor vehicles
- d. Property being used by collectors for special interest vehicles who purchase or sell parts of said vehicles in compliance with Section 341.266 of the Wisconsin Statutes.
- e. Salvage yards
- f. Any person or persons, association, partnership, firm or corporation using property in accordance with a license issued under subchapter (1) Chapter 218 of the Wisconsin Statutes, "Motor vehicle Dealers; Salesman, Sales Finance Companies" or subchapter (4), Chapter 218, Wisconsin Statutes "Mobile Home Dealers" shall be exempt from the ordinance.
- g. Any businesses that fall under the definition of paragraphs a, b, c, d and f, above that have received a qualified exemption permit, as to any such wrecked, disabled, partially dismantled or unlicensed motor vehicles, truck bodies, tractors or trailers, will be required to remove from their property any nonconforming motor vehicle, truck body, tractor or trailer, within 30 days of their receipt or same. The business may apply to the board for a 30-day extension by demonstrating due diligence and reasonable cause as to why the nonconforming item cannot be repaired or otherwise disposed of within the initial 30 days. The purpose for this provision is to not allow junked vehicles, etc., as defined above to remain on property within the political boundaries of the Town of Saratoga for an indefinite period of time without a plan in place for the repair, removal or other disposition of said items. Any business so affected will apply for a Qualified Exemption Permit according to the terms set forth in subsection E, and subject to the terms for disposition as set forth above.

#### SUBSECTION E: Application For Qualified Exemption Permit

Any party seeking a Qualified exemption Permit must apply in writing to the Town Clerk. Such application shall contain the name of the person seeking the exemption, the property for which the exemption is being sought and the statement as to why the applicant believes he/she qualifies for an exemption. The Town Clerk shall report such application to the Town Board who will inspect or cause to be inspected the premises requesting the exemption to determine if the case is proper for an exemption.

#### SUBSECTION E.1: Exemption Agreement

Prior to a Qualified Exemption Permit being granted, the Town Board and the party applying will sign a written agreement concerning said exemption. The agreement will contain a description of the property, the name and the address of the party

applying for the exemption, a statement as to what the exemption being granted is, and appended thereto and included therein rules, regulation, and conditions which the Town Board requires to be followed in order for the party to maintain the exemption. Such agreement shall be filed with the Town Clerk and open to public inspection.

**SUBSECTION E.2:**

A party receiving an exemption under Section E and Section E.1 shall hold the exemption as long as the property is being used in accordance with the terms indicated in the written agreement between the party and the Town Board. Upon complaints being made in writing by a Town of Saratoga resident to the Town Board that a party has violated a provision of the written agreement, the Town Board shall summon the holder of the discretionary exemption to appear before them for the purpose of reviewing the complaint. The Town Board will notify the exemption holder of the substance of the complaint and the time set aside for review of the matter by forwarding notice of same to the exemption holder. Said review date shall not be less than ten (10) days after the date of the mailing of the notice. The Town Board shall proceed to review the matter upon the date specified in the notice, and if the Town Board finds the allegations of said complaint are correct, the Town Board may either set conditions to be met by the exemption holder to abate the cause of the complaint, or may, in its discretion, treat the property where the junk vehicles, or parts thereof are located as not exempt from the provisions of this ordinance.

**SUBSECTION F: Enforcement**

The Town Constable and such other town representative as may be designated by the Town Board, is hereby authorized to enforce this ordinance, and to issue citations for violations of this ordinance pursuant to applicable state statutes.

**SUBSECTION G: Severability**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application thereof to any party or circumstance are held invalid, the remainder of the ordinance and the application of such provision to other parties or circumstances shall not be affected thereby.

**SUBSECTION H: Effective Date**

This ordinance shall take effect upon its publication as provided by law.

## SECTION 4: ABATEMENT OF PUBLIC NUISANCES

### 1. Inspection of premises

Whenever a complaint is made to the Town Chairman or to the Constable that a public nuisance exists within the Town of Saratoga, the Constable shall promptly and forthwith inspect or cause to be inspected the premises complained of and shall submit a written report of his findings to the Town Chairman, along with any incident reports and photographs. A copy of those documents and photographs shall likewise be filed with the Town Clerk.

### 2. Summary Abatement

#### a. Notice to Owner

If the Constable 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 cause to be served 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 to the premises to abate and remove such nuisance or report to the next town meeting with a cleanup plan.

### 3. Abatement by Court Action

If the Constable shall determine that a public nuisance exists on private premises by 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 Wood County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes. In the alternative, the Chairperson may direct the Constable 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 Saratoga, 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 \$1.00 and no more than \$200.00 together with the 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 90-12-1

The following bond schedule is hereby established for use of citation pursuant to this Ordinance.

Ordinance Title	Offense	Deposits & Costs
First violation of the Public Nuisance Ordinance	1 <sup>st</sup> - \$50 per day	Current court cost
Second violation of the Public Nuisance Ordinance	2 <sup>nd</sup> - \$100 per day	Current court cost

#### SECTION 8: ENFORCEMENT

The town constable and such other town representative as may be designated by the Town Board, is hereby authorized to enforce this ordinance, and to issue citations for violations of this ordinance pursuant to applicable state statutes.

#### SECTION 9: SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other

provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application thereof to any party or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other parties or circumstances shall not be affected thereby.

#### SECTION 10: EFFETIVE DATE

This ordinance shall take effect upon its publication as provided by law.

Passed, approved, and adopted by the Town Board of the Town of Saratoga, Wood County, Wisconsin on the 6<sup>th</sup> day of April 2005.