

TOWN OF RHINE MUNICIPAL CODE

CHAPTER 2: ORDERLY CONDUCT

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2.01 PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Town of Rhine.

2.02 DEFINITIONS

(1) PUBLIC NUISANCE. A public nuisance is a thing, 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, 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.

(2) PUBLIC NUISANCES AFFECTING HEALTH. The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Subsection (1) of this Section:

- (a) All decayed, harmfully adulterated, or unwholesome food or drink sold or 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 a sanitary manner within twenty-four (24) hours after death.
- (c) 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.
- (d) All stagnant water in which mosquitoes, flies, or other insects can multiply.
- (e) Privy vaults and garbage cans which are not fly-tight.
- (f) All noxious weeds and other rank growth of vegetation.
- (g) All animals running at large.
- (h) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the Town limits or within one (1) mile there from in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.

(i) The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, creamery, or industrial wastes or other substances.

(j) Any use of property, substances, or things within the Town of Rhine emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injury, or inconvenience the health of any appreciable number of persons within the Town.

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

(l) 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.

(3) PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Subsection (1) of this Section.

(a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses, and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse, or gambling.

(b) All gambling devices and slot machines.

(c) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by the Ordinances of the Town of Rhine.

(d) Any place or premises within the Town of Rhine where Town Ordinances or State laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated.

(e) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or Ordinances of the Town.

(4) PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of Subsection (1) of this Section:

(a) 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.

(b) All buildings erected, repaired, or altered within the fire limits of the Town of Rhine in violation of the provisions of the Ordinances of the Town relating to materials and manner of construction of buildings and structures within said District.

(c) 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 signal, or which because of its color, location, brilliance, or manner of operation interferes with the effectiveness of any such device, signal, or sign.

(d) 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.

(e) All limbs of trees which project over and less than fourteen (14) feet above the surface of a public sidewalk or street or less than ten (10) feet above any other public place.

(f) All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the Town.

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

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

(i) All loud, discordant, and unnecessary noises or vibrations of any kinds.

(j) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing, or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

(k) All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same except as permitted by the Ordinances of the Town 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.

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

(m) 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.

(n) Any unauthorized or unlawful use of property abutting on a public street, alley, or sidewalk or of a public street, alley, or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(o) Repeated or continuous violations of the Ordinances of the Town or laws of the State of Wisconsin relating to the storage of flammable liquids.

2.03 ABATEMENT OF PUBLIC NUISANCES

(1) **INSPECTION OF PREMISES.** Whenever a complaint is made to the Town Chairperson that a public nuisance exists within the Town of Rhine, he shall promptly notify a Town Constable who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Town Chairperson. Whenever practicable, the inspecting Constable 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 inspecting 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 direct the Constable to serve notice on the person causing, permitting, or maintaining such nuisance or upon the owner or occupant of the premises which such nuisance is caused, permitted, or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting, or maintaining such nuisance or the owner or the occupant to abate or remove such nuisance within twenty-four (24) hours and shall state that unless such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.

(b) **Abatement of 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 Town Board shall cause the abatement or removal of such public nuisance.

(3) **ABATEMENT BY COURT ACTION.** If the inspecting Constable 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 Chairperson who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Sheboygan County.

(4) **OTHER METHODS NOT EXCLUDED.** Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Rhine or its officials in accordance with the laws of the State of Wisconsin.

2.04 COST 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 abating a public nuisance by the Town 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, such cost shall be assessed against the real estate as a special charge.

2.05 PENALTY

(1) FIRST OFFENSE/PENALTY. Any person who shall violate this Subsection shall upon conviction thereof forfeit not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) 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 such forfeiture and costs are paid but not exceeding ninety (90) days. (Rev. 08/07/01)

(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 Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) for each offense together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid but not to exceed six (6) months. (Rev. 08/07/01)

2.06 REGULATION OF DOGS

(1) It shall be unlawful for any person who owns, harbors, or keeps a dog to permit such dog to run at large at any time of the year within the Town limits. A dog may run at large on the premises owned or rented by the owner, harbinger, or keeper of a dog.

(2) It shall be unlawful for any dog to run at large or to be under the control of the owner or an attendant within any public park or beach.

(3) Chapter 174 of the Wisconsin Statutes, as amended is hereby adopted by reference and made part of this section as if set forth in full unless the content and context of any specific statutory section clearly indicates otherwise. (Rev. 12-2-2009)

(4) AUTHORITY OF CONSTABLE AND OTHER OFFICIALS

(a) Pursuant to Wis. Stat. ' 60.22(4), the Town Board assigns to the Town Constable the authority and responsibility for enforcement of this Ordinance.

(b) The Town Constable and/or any elected officer or appointed law enforcement official of the Town may seize and impound any dog found in violation of the aforesaid regulations. All such dogs seized shall be impounded in accordance with the requirements of Wis. Stat. ' 174.046. The owner or keeper of such dog, if identified, shall be notified and said owner or keeper shall claim his dog and the Town of Rhine shall be entitled to the payment of an impounding fee. Such impounding fee is not to exceed Ten Dollars (\$10.00) for the pick-up of each dog and Six and 50/100 Dollars (\$6.50) for each day's feeding and water or portion of each day thereof, but not to exceed seven (7) days.

(c) Actual seizure of a dog, licensed or unlicensed, running at large, by an elected officer, the Town Constable, or other appointed law enforcement official of the Town shall not be necessary. In the event that the dog is identified, the elected officer, Town Constable, or appointed law enforcement official of the Town shall notify the owner of such dog and such identity shall be sufficient evidence upon which to issue a citation for any violation of this Ordinance.

(d) Lost or Runaway Dogs Exempt. Such dogs shall not be subject to the penalties provided in Subsection (f) of this Ordinance if their being lost or running away is timely reported to the Town Constable or such other Town officer or official directly responsible for the enforcement of this Ordinance.

(e) Additional Tax. Pursuant to the authority granted by Wis. Stat. ' 174.05(3), it is hereby provided that an additional tax of Five Dollars (\$5.00) shall be added to the minimum dog license fee provided by Wis. Stat. ' 174.05(2).

(f) Penalties. Notwithstanding any penalties made and provided, any person who shall violate any provision of this Ordinance shall upon conviction thereof forfeit a sum of not less than Fifty Dollars (\$50.00) nor more than Five Hundred (\$500.00) plus the costs of prosecution. (Rev. 08/07/01)

2.07 TRANSIENT MERCHANTS

(1) DEFINITION. The words "transient merchant" as hereinafter used shall include any peddler, canvasser, solicitor, whether principal, agent, or employee, who engages in, does, or transacts any temporary or transient business in the Town of Rhine, either in one location or by moving his place of business from place to place in the Town of Rhine selling goods, wares, or merchandise or solicits for such trade and whether or not for the purpose of carrying on such business, such individual hires, leases, occupies, or uses a building, structure, vacant lot, public highway, or adjoining premises, railroad car, motor vehicle, or any other vehicle for the exhibition or sale of such goods, wares, and merchandise.

(2) WHO NOT INCLUDED. This Section shall not be held to include the acts of persons selling services, goods, or materials at wholesale to dealers in such articles, nor to newsboys, vendors of dairy products, fruit juices, bakery goods, groceries, or ice products to any regular customers on established routes, nor the acts of the local area merchants or their employees in delivering such goods in the regular course of business, nor shall this Section be held to include or apply to any farmer or truck gardener who shall vend, sell, or dispose of or offer to sell, vend, or dispose of the products of the farm or garden occupied and cultivated by him nor governmental agents in the performance of their official duties.

3) APPLICATION AND PERMIT.

(a) Any person desiring to engage in business as aforesaid as a transient merchant shall obtain a permit application from the Town Clerk/Treasurer. He shall fill out this application form stating the nature of and the place where his business is to be carried on, the length of time for which a permit is desired, a general description of the things intended to be sold, disposed of, or contracted for, the name, date of birth, and permanent address of all the employees to be covered by such permit, the name and address of the person he represents and the place or places of residence of the applicant for the two (2) years previous. No permit shall be granted until all of the provisions of Subsection (b) shall have been complied with by the applicant. Whenever the business of the applicant shall require the use of weighing or measuring devices, the application shall be accompanied by a certificate from the Sealer of Weights and Measures stating that such devices have been examined and approved. (Rev. 08/07/01)

At the time of filing the application, an investigation fee of Twenty-five Dollars (\$25.00) for each person to be covered by the permit shall be paid to the Town Clerk/Treasurer to cover the cost of investigation of the facts stated in the application. The application shall be sworn to by the applicant and filed with the Town Clerk/Treasurer and shall contain such additional information as the Town Clerk/Treasurer or the Town Chairperson shall require for the effective enforcement of this Section and the safeguarding of the residents of the Town of Rhine from fraud, misconduct, or abuse. Religious, charitable, patriotic, or philanthropic agencies or their agents shall not be required to pay the application fee. (Rev. 08/07/01)

(b) Upon receipt of each such application, the Town Chairperson or a person designated by him shall institute such investigation of applicant's business and moral character as he deems necessary for the protection of the public good, and the Town Chairperson shall endorse his approval or disapproval upon said application within seventy-two (72) hours after it has been filed with the Town Clerk, and the Town Clerk shall thereupon issue or deny the permit in accordance with the findings of the Town Chairperson.

(4) **STANDARDS.** No permit shall be issued to an applicant if upon investigation it is determined that there is a substantial probability of traffic hazards, debris or litter on public property, potential public health hazards, or fraudulent practices resulting from the carrying-on of the applicant's business.

(5) **PERMITS REQUIRED.** It shall be unlawful for any transient merchant to vend, sell, or dispose of or to offer to vend, sell, or dispose of goods, wares or merchandise, produce, or any other thing at any place whatsoever within the Town of Rhine without first obtaining a permit as set forth herein.

(6) **PENALTY.** Any person who shall conduct the business of a transient merchant as herein defined without having first obtained a permit as provided by this ordinance shall upon conviction thereof forfeit a sum of not less than Two Hundred Dollars (\$200.00) nor more than One Thousand Dollars (\$1,000.00) plus costs of prosecution and upon default of payment of such forfeiture and costs shall be imprisoned in the County Jail for not more than one (1) month or less than ten (10) days. (Rev. 08/07/01)

2.08 LITTERING PROHIBITED

(1) **EXPOSURE OF UNWHOLESOME MATTER.** No person shall place, throw, or leave any slop, dirty water, or other liquid of offensive smell or otherwise noxious or unwholesome matter or any dead carcass, carrion, meat, fish, entrails, or any dead animal, straw, or other rubbish or any ashes, garbage, dirt, or refuse of any kind or description upon any private or public property, street, road, gutter, sidewalk, alley, or any stream or lake in or bordering the Town of Rhine.

(2) **EXCEPTIONS.** The provisions of Subsection (1) do not apply to any person engaged in the business of farming or any agricultural pursuit to the extent that such farming or agricultural pursuit results in the deposit of manure, straw, or other materials on the property owned or leased by the said person, and to the extent that such manure, straw, or other materials as a normal byproduct of the farming business or agricultural pursuit conducted by such person.

(3) PENALTY. Any person violating this ordinance shall upon conviction thereof forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and the costs or prosecution. Upon written notice by the duly appointed Town Constable to abate or remove the unwholesome matter, each day after such notice that the unwholesome matter is allowed to remain on the property shall constitute a separate violation thereof.