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TOWN OF SEVASTOPOL
Door County, Wisconsin

ORDINANCE No. 01 - 2011
PUBLIC NUISANCE

The Town Board of the Town of Sevastopol does ordain the Public Nuisance ordinance as follows:

1. TITLE AND PURPOSE.

The title of this ordinance is the TOWN OF SEVASTOPOL, ORDINANCE No. 01-2011, PUBLIC NUISANCE. The purpose of this ordinance is to regulate for public health and safety reasons public nuisances and certain uses and activities in the town of Sevastopol.

2. AUTHORITY.

The town board has specific authority under Chapters 60 and 66, Wis. Stats., and general authority under its village powers under sec. 60.22, Wis. Stats., to adopt this ordinance.

3. ENFORCEMENT.

The enforcement of this ordinance shall be in accordance with the Wisconsin Statutes, with specific attention to Chapters 29, 92, 95, 125, 169, 172, 174, 778, 814, 823, and 951, Door County Ordinance No. 31.39, Town of Sevastopol Ordinance Nos. 02-2011, 03-2011 and 04-2011 and this ordinance of the Town of Sevastopol.

4. ADOPTION OF ORDINANCE.

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting, and proper notice having been given, provides for the regulation of the storage, treatment, disposal, and discharge of certain junk and of other items, uses, and activities in the Town of Sevastopol.

5. PUBLIC NUISANCE PROHIBITED.

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

6. DEFINITIONS.

A. Public Nuisance. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such a 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 or substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any road, street, alley, highway, navigable body of water or other public way or the use of public property;

B. Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumerations shall not be construed to exclude other health nuisances coming within the definition herein:

- 1) All accumulations of putrescible and nonputrescible solid waste such as animal or vegetable matter, trash, rubbish, lumber, bedding, packing material, scrap metal or other trash in which disease- carrying insects, rodents or other vermin are present or may reasonably be expected to be present;
- 2) Privy vaults, garbage cans and dumpsters which are not covered;
- 3) All animals running at large;
- 4) Pollution of any well or cistern, stream, lake, bay, canal or other body of water by sewage, waste or other substances;
- 5) Any use of property, substances or things within the Town of Sevastopol emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, stench or dust extremely repulsive to the physical sense of an ordinary person which annoy, cause injury, discomfort or inconvenience, to the health of any appreciable number of persons within the Town of Sevastopol;
- 6) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any road, street, gutter, alley, sidewalk, beach or public place within the Town of Sevastopol;

C. Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting the comfortable enjoyment of life, public peace, health and safety, but such enumeration shall not be construed to exclude other nuisances affecting the comfortable enjoyment of life, public peace, health and safety coming within the provisions of this ordinance:

- 1) All signs, billboards, awnings and other similar structures over or near roads, streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety;
- 2) All buildings erected, repaired or altered within the Town of Sevastopol in violation of the provisions of any ordinance of the town, county or state relating to the materials and manner of construction of buildings and structures within said district;
- 3) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public road, street or highway which purport to be or may be mistaken as an official traffic control device or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal;
- 4) The defacing, mutilation, destruction or removal of any official traffic control device, sign or signal, informational sign, street sign or fire number placed by the town, county or state within the Town of Sevastopol;
- 5) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public roads, streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;
- 6) All limbs of trees which project over and less than fourteen (14) feet above the surface of a public sidewalk, road, street or highway or less than ten (10) feet above any other public place;
- 7) All use or display of fireworks except as provided by the laws of the State of Wisconsin and approved by the Town of Sevastopol;
- 8) All buildings or structures so old, dilapidated, out of repair, of faulty construction, abandoned or open to intrusion so as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

- 1 **9)** All loud, discordant or unnecessary noises or vibrations of any kind. This includes the
2 use of engine braking (Jake Brake) in non-emergency situations in places so
3 designated by official signs;
4 **10)** The keeping or harboring of any animal or fowl which, by howling, yelping or barking,
5 crowing or making of other noises shall greatly annoy or disturb another or others
6 within the Town of Sevastopol;
7 **11)** All obstructions of roads, streets, highways, alleys, sidewalks or crosswalks and all
8 excavations in or under the same, except as permitted by the Town of Sevastopol or
9 which, although made in accordance with the rules of the Town of Sevastopol are
10 kept or maintained for an unreasonable or illegal length of time after the purpose
11 thereof has been accomplished;
12 **12)** All open and unguarded pits, wells, perk test holes, excavations or unused basements
13 freely accessible from any public road, street, alley, sidewalk or right of way;
14 **13)** All abandoned refrigerators, freezers or iceboxes from which the doors or other
15 covers have not been removed or which are not equipped with a device for opening
16 from the inside;
17 **14)** Repeated or continuous violations of the ordinances of the town, county or the state
18 relating to the storage of flammable liquids;
19 **15)** All private driveways and parking lots servicing buildings which do not have an
20 overhead clearance of fourteen (14) feet from the roadbed surface and an
21 unobstructed width of twelve (12) feet for the safe passage of emergency and
22 service vehicles. The owner of such property shall be held responsible for any
23 damage to emergency vehicles in the event of nonconformance;
24 **16)** Lighting fixtures intended to illuminate outdoor areas shall be placed, directed and/or
25 hooded such that no direct beams of light from the fixture shall be cast upon any
26 adjacent properties or upon any public roads or highways;

27
28 **7. ABATEMENT OF PUBLIC NUISANCE / PERMIT REVOCATION.**

29 **A. Inspection of Premises.**

- 30 **1)** Whenever it becomes apparent or a complaint is made to the town board, town
31 clerk, town chair or any appropriate town committee or agent that a public nuisance
32 under this ordinance or a violation of a permit issued under this ordinance, or any
33 other permit that is associated with the complaint, issued under the Town of
34 Sevastopol's village powers under sec. 60.22, Wis. Stats., may exist within the Town
35 of Sevastopol, the town chair, town committee, or other agents of the town board
36 may inspect or cause to be inspected the premises complained of and if necessary
37 report the findings to the town board.
38 **2)** Except as otherwise provided by law, if the person subject to the complaint holds a
39 current permit under this ordinance, or any other permit that is associated with the
40 complaint, issued under the Town of Sevastopol's village powers under sec. 60.22,
41 Wis. Stats., the town chair, the town committee or other agents of the town board
42 may request the town board to hold a public hearing to consider suspension or
43 revocation of the permit for refusal to comply with the permit conditions and this
44 ordinance. The town board may hold a public hearing prior to taking any action to
45 revoke or suspend a permit. The permit holder shall be notified of the public hearing
46 by the mailing by U.S. mail of a First Class notice letter to the last known address of
47 the permit holder noted on the permit or permit application.

- 1 3) Except as otherwise provided by law, the town board may, in the alternative to
2 revocation, suspend any issued permit for a period of up to six (6) months. Any
3 revocation shall be for a period in excess of six (6) months. No application or
4 reapplication can be received or acted upon by the town board for the premises or
5 for the owner or occupant of the premises for any activity, use, or item prohibited by
6 or requiring a permit under this ordinance, or any other permit that is associated
7 with the complaint, issued under the Town of Sevastopol's village powers under sec.
8 60.22, Wis. Stats., during the suspension or revocation period.
- 9 4) The town board shall advise the permit holder of any decision regarding the status
10 of the permit.

11 **B. Owner of Premises Responsibility.** Any owner or occupant of land in the Town of
12 Sevastopol is responsible for the compliance with this ordinance on the owner's or
13 occupant's land regardless of the ownership of and responsibility for the uses, activities, or
14 things located on the land that are subject to this ordinance.

15 **C. Summary Abatement.**

16 1) **Notice to Owner:** If the town chair, town committee, or other agent of the town
17 board determine that a public nuisance exists under this ordinance within the Town
18 of Sevastopol on private or public land and there is great, immediate, and substantial
19 danger or threat to the public health or safety, the town board, town chair, town
20 committee, or other agents of the town board may serve a written order upon the
21 person who is causing, permitting, or maintaining the public nuisance, and the owner
22 or occupant of the premises where the public nuisance is caused, permitted, or
23 maintained. The order notice shall direct the owner or occupant to remove the
24 public nuisance within a time frame deemed to be reasonable by the town board
25 and shall state that unless the public nuisance is so timely abated, the town may
26 cause, due to the emergency conditions, the public nuisance to be abated and shall
27 charge the costs of the abatement, including all attorney fees, inspection fees, permit
28 fees, and any and all other charges associated with the abatement to the owner,
29 occupant or person causing, permitting, or maintaining the public nuisance.

30 2) **Abatement by Town:** If the public nuisance is not abated within the time provided
31 in the notice under paragraph 1) or if the owner, occupant, or person causing,
32 permitting, or maintaining the public nuisance, if known, cannot be found, the town
33 chair, the town committee, or other agents of the town board, with the approval of
34 the town board, may cause the abatement or removal of the public nuisance by
35 seeking for the Town of Sevastopol a court order that allows for the immediate
36 enjoinment and abatement of the public nuisance.

37 **D. Abatement by Court Action.** If the town board determines that a public nuisance exists in
38 the Town of Sevastopol on public or private premises but that the nature of the nuisance
39 does not threaten great, immediate, and substantial danger to the public health or safety,
40 the town board may in its discretion direct the town clerk to take one or more of the
41 following actions:

- 42 1) Cause to be issued and served a written order to cease and desist the public
43 nuisance upon the person causing, permitting, or maintaining the public nuisance
44 and the owner or occupant of the premises where the public nuisance is located.
- 45 2) Cause to be issued and served a citation for violation of this ordinance upon the
46 person causing, permitting, or maintaining the public nuisance and the owner or
47 occupant of the premises where the public nuisance is located.

- 1 3) Cause the town attorney to draft a formal civil complaint to be filed and served upon
- 2 the alleged violators based upon an alleged violation of this ordinance or the
- 3 conditions of any permit as issued.
- 4 4) Have drafted by the town attorney to be filed and served a formal complaint for
- 5 abatement of the public nuisance under Chapter 823, Wis. Stats.

6 **E. Other Methods Not Excluded.**

- 7 1) Nothing in this ordinance may be construed as prohibiting the injunction and
- 8 abatement of public nuisances against any person, including against a permit holder
- 9 that holds a current and valid permit issued under this or any other Town of
- 10 Sevastopol ordinance, by the town or its officials in accordance with the laws of the
- 11 State of Wisconsin or in this ordinance.
- 12 2) The provisions of this ordinance may be enforced by any member of the public,
- 13 without inclusion of the Town of Sevastopol in the enforcement proceedings, in
- 14 order to secure compliance with the provisions of this ordinance. Any private
- 15 enforcement action shall not include the remedies of obtaining a fine or forfeiture,
- 16 costs of prosecution or attorney fees in the enforcement proceedings. The sole
- 17 remedy available for private enforcement is injunctive relief.

18
19 **8. COSTS OF ABATEMENT OR DISPOSAL.**

20 In addition to any other penalty imposed by this ordinance for the erection, contrivance,
21 creation, continuance, or maintenance of a public nuisance and violation of this ordinance, the
22 cost of abatement, including all attorney fees, inspection fees, permit fees, witness fees, and any
23 and all other charges associated with the abatement of any public nuisance by the Town of
24 Sevastopol may be collected under this ordinance or sec. 823.06, Wis. Stats., as a debt or
25 expense, from the owner or occupant of the real property for causing, permitting, or maintaining
26 the public nuisance. If notice to abate the nuisance has been given to the owner or occupant
27 previously, the cost of abatement, including all attorney fees, inspection fees, permit fees,
28 witness fees, and any and all other charges associated with the abatement of any public nuisance
29 by the Town of Sevastopol may be assessed against the real property for services rendered and
30 incurred by the Town of Sevastopol to enjoin or abate the public nuisance as a special charge
31 under sec. 66.0627, Wis. Stats., unless paid earlier. If any vehicle, structure, equipment,
32 implement, appliance, or animal is abandoned or remains unclaimed in violation of this
33 ordinance, the town board of the Town of Sevastopol may proceed to declare this personal
34 property abandoned and proceed to dispose of this personal property under sec. 66.0139, Wis.
35 Stats., by public auction or other means as determined by the town board.

36
37 **9. PENALTY.**

- 38 **A. First Offense Penalty.** Any person who shall violate this ordinance or any part thereof shall
- 39 upon conviction thereof forfeit not less than One Hundred Dollars (\$100.00) nor more than
- 40 Five Hundred Dollars (\$500.00) for each such offense, together with the cost of prosecution,
- 41 including all attorney fees, inspection fees, witness fees, permit fees, and any and all other
- 42 charges associated with the proceedings. Each day of violation shall be considered a
- 43 separate and distinct violation.
- 44 **B. Second Offense Penalty.** Any person guilty of violating this ordinance or any part thereof
- 45 who shall previously have been determined to be in violation of this ordinance shall forfeit
- 46 not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars
- 47 (\$1000.00) for each such offense, together with the cost of prosecution, including all
- 48 attorney fees, inspection fees, witness fees, permit fees, and any and all other charges

1 associated with the proceedings. Each day of violation shall be considered a separate and
2 distinct violation.
3

4 **10. SEVERABILITY.**

5 If any provision of this ordinance or its application to any person or circumstance is held invalid,
6 the invalidity does not affect other provisions or applications of this ordinance that can be given
7 effect without the invalid provision or application, and to this end the provisions of this
8 ordinance are severable.
9

10 **11. EFFECTIVE DATE.**

11 This ordinance shall become effective upon publication.
12 The town clerk shall properly publish this ordinance as required under sec. 60.80, Wis. Stats.
13

14 Adopted this 23 day of May, 2011.

Submitted by:

Chuck Tice

Chuck Tice, Chairperson,
Property Management Committee

Roll Call Board Members	Aye	Nay	Exc.
Tom Girman	✓		
John Staveness	✓		
Chuck Tice	✓		
Dan Woelfel	✓		
Leo Zipperer	✓		

27
28 **Certification:**

29 I, Linda Wait, Clerk of the Town of Sevastopol,
30 hereby certify that the above is a true and
31 correct copy of an ordinance that was adopted
32 on the ~~23rd~~ day of May, 2011,
33 by the Town Board of Supervisors.

34 Linda D. Wait

35
36 Linda D. Wait, Clerk
37 Town of Sevastopol
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39 **COUNTERSIGNED:**

40 Leo W. Zipperer
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42 Leo W. Zipperer, Town Board Chairman
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