

CHAPTER 11 - PUBLIC NUISANCES

11.01 REGULATION OF JUNK ACCUMULATION

(1) DEFINITIONS

(a) "Junk" means any old or scrap metal, metal alloy, synthetic or organic material or waste. Junk includes any air conditioner, clothes dryer or washer, dish washer, fan, furnace, refrigerator, stove, water heater or softener, and any other appliance, which is located outside of a dwelling or other enclosed structure, and is incapable of being used for its designed purpose, or has not been used for said purpose for a period of at least 30 days.

(b) "Junk farm machinery" means any combine, harvester, hay bailer, manure spreader, plow, portable storage tank, wagon or wagon frame, and other pieces of equipment, and their components, commonly found in agricultural use; which are inoperable, and stored outside of a barn or similar enclosed structure for a period of at least 90 days.

(c) "Junk vehicle" means any all-terrain vehicle (ATV), motor vehicle [as defined in § 340.01(35), Wis. Stats.], motorcycle, recreational vehicle (RV), snowmobile, trailer, truck or truck body, and similar pieces of equipment which are junked, dismantled, disassembled, inoperable, abandoned, or wrecked, and are incapable of being legally operated on a public highway due to missing or inoperative parts, flat or removed tires, or other defects including lack of a valid registration, and which are stored outside of a garage or similar enclosed structure for a period of at least 30 days.

(d) "Solid waste" has the meaning specified in § 289.01(33) Wis. Stats., but also includes all garbage, all animal, fish, fowl or vegetable matter incident to and resulting from the use, preparation and storage of food for human consumption, rubbish, ashes, debris, industrial wastes, miscellaneous household waste material, combustible and non-combustible material resulting from ordinary mercantile enterprises, boxes, cartons, paper, ashes, tires, cinders, tin cans, wood or metal or plastic refuse, bottles and broken glass, rubber, grass clippings, brush, leaves and garden plants.

(2) ACCUMULATION OF JUNK PROHIBITED

(a) No person shall allow any material described in (1)(a)-(1)(d), to accumulate on their property in an unenclosed or unscreened manner, or in a manner which tends to create a safety, sanitary or health hazard, tends to create a rodent or varmint attraction, or by its unsightliness, tends to depreciate property values.

(b) Any person in violation of (a) shall be subject to the enforcement procedures set forth in TCG § 11.10.

(c) The safe and healthy accumulation of any material described in (1)(a)-(1)(d), which is out of the public view; and is in compliance with all other state, county and town regulations is not prohibited by this ordinance.

(3) EFFECTIVE DATE

The original ordinance was adopted on August 7, 1989. The ordinance was amended on July 17, 2006 and January 8, 2018.

11.02 OUTDOOR AND OPEN BURNING

(1) PURPOSE

This ordinance is intended to promote and safeguard the public health, safety and welfare of the citizens of the Town of Cottage Grove due to the air pollution and fire hazards of outdoor and

open burning.

(2) DEFINITIONS

(a) "Air curtain destructor" means a solid waste disposal operation that combines a fixed wall open pit and a mechanical air supply, which uses an excess of oxygen and turbulence to accomplish the smokeless combustion of clean wood wastes and similar combustible materials.

(b) "Fire Pit" means an area cleared down to bare dirt and hollowed out at least six inches deep.

(c) "Fire Ring" means a barrier to keep the fire from escaping from a fire pit, such as stones, a tire rim, or commercially available fire ring at least 11 inches deep.

(d) "Campfire" means a small outdoor fire in a fire pit or surrounded by a fire ring, intended for recreation or cooking.

(e) "Outdoor Furnace" means a furnace, stove or boiler that is not located within a building intended for habitation by humans or domestic animals.

(f) "Fire Chief" means the Chief of the Cottage Grove Volunteer Fire Department.

(g) "Open burning" means combustion in which the by-products thereof are emitted directly into the ambient air, without passing through a stack or chimney, including the combustion occurring at a properly operated air curtain destructor. Open burning does not include the combustion which occurs in any enclosed or covered unit designed to prevent the escape of any burning materials.

(3) GENERAL PROHIBITION ON OPEN BURNING, OUTDOOR BURNING AND REFUSE BURNING.

Open burning, outdoor burning and refuse burning are prohibited in the Town limits unless the burning is specifically permitted by this ordinance.

(4) PROHIBITED OUTDOOR AND OPEN BURNING

(a) Open burning of any wet combustible rubbish, garbage, oily substances, asphalt, rubber or plastic products, or other materials prohibited by Wis. Admin. Code §§ NR 429.04 or 502.11.

(b) Burning of explosive or dangerous material without a permit issued by either the Wisconsin Department of Natural Resources (DNR), or the Wisconsin Department of Safety and Professional Services (WDSPPS).

(c) Open burning in an air curtain destructor without first obtaining a permit from the DNR and having received written approval from the town board.

(d) Open burning of any material whatsoever by businesses, excluding agricultural or silvicultural facilities, except where a wood burning site license under Wis. Admin. Code NR § 502.11(f), has been approved by the WDNR.

(e) Open burning of any material whatsoever by agricultural or silvicultural facilities, except for stumps, trees, limbs, brush and weeds, as described in Wis. Admin. Code NR § 502.11(2)(a).

(5) REGULATED OPEN BURNING

The following open burning activities are allowed, provided that the open burning is conducted by an individual with a valid Open Burning Permit and in compliance with all conditions set forth in the Open Burning Permit and in (6) through (8) below:

(a) Open burning of trees, stumps, brush, dry leaves, plant clippings, weeds, and other dry

combustible materials generated on the property, including that from clearing and maintenance of rights of way

- (b) Any non-enclosed or non-covered cooking fires or campfires.
- (c) Open burning, or fires set for practice and instruction of fire fighters, or testing of firefighting equipment.

(6) OPEN BURNING PERMITS

(a) DEFINITIONS

1. "Open Burning Permit" means a yearly permit for daytime burning of materials permitted under section (5). Once issued, the permit holder is required to call the fire department burn line or visit the fire department's web site to check for any burning restrictions prior to burning on the day of the burn.
2. "Campfire Permit" means a yearly permit for recreational or cooking fires in a fire pit or surrounded by a fire ring.

(b) Open Burning Permits shall be required for all regulated open burning conducted within the limits of the Town, as described in (6).

(c) Open Burning Permits shall be issued by the Town Chair or his/her designee.

(d) Open Burning Permits shall not be required for any activity described in (5)(c), when these activities are conducted by the Cottage Grove Fire Department.

(e) Open Burning Permits shall only be issued to an adult with a vested interest in the land described on the permit.

(f) Open Burning Permits may be denied to any person found to be in violation of any provision of this ordinance for a period of up to one year from the date of the violation.

(g) Open Burning Permits shall detail all conditions that apply to the activity being permitted, and a copy of the permit shall be available at the burning site. A current copy of the burning permits is attached as Appendix 11-A with the same force and effect as if it were fully reprinted herein.

(7) STANDARD OPEN BURNING PERMIT CONDITIONS

The following conditions shall apply to any Open Burning Permit issued by the Town:

(a) A responsible adult with the physical and mental capacity to conduct any burning for which the Open Burning Permit is issued shall be in attendance at any fire until it is totally extinguished.

(b) All open burning shall be conducted in a safe manner, when wind and weather conditions are such that they do not create any fire hazards to adjacent properties and the open burning can be safely controlled. Open burning may be restricted due to weather conditions at the discretion of the Fire Chief.

(c)

(d) Except for campfires, or when specifically noted on the permit as a special condition, no open burning shall be conducted between sunset and sunrise.

(e) Campfires shall be extinguished by 10:00 P.M. on Sunday thru Thursday and 11:00 P.M. on Friday or Saturday, or shall be extinguished immediately upon the request of a neighbor due to smoke causing a nuisance on the neighboring property.

(f) No open burning shall be conducted within 20 feet from any structure, hay stack, or fuel storage location, or upon any surface within a right-of-way, public or private (except when burning

is performed by Town or County staff in connection with clearing of the right-of-way).

(g) Adequate firebreaks shall be provided, and arrangements shall be made to notify the fire department in case of an emergency (i.e.: having a phone available to DIAL 911).

(h) The open burning shall not be in violation of any federal air control rules, or any state air pollution control rules that are required by applicable federal laws or regulations.

(8) OUTDOOR FURNACES

Subject to the other provisions of this ordinance and the terms of any permit issued under this ordinance, an outdoor furnace may be used in the Town only in accordance with the following provisions:

(a) The outdoor furnace shall not be used to burn any of the prohibited materials listed in section (4) of this ordinance.

(b) The outdoor furnace shall be located at least 250 feet from the nearest building which is not on the same property as the outdoor furnace unless written approval of the burning location is obtained from the owner of the nearest building that is not on the same property. A copy of the approval shall be provided to the Town Board prior to commencing burning.

(c) The outdoor furnace shall have a chimney that extends at least 15 feet above the ground surface or higher. The Town Board may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.

(d) Outdoor furnace installations completed prior to January 8, 2010 will be considered grandfathered in for the purposes of (b) and (c) above.

(9) RIGHT OF ENTRY AND INSPECTION

(a) The Fire Chief or any authorized officer, agent, employee or representative of the Town who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. Note: If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with §§ 66.122 and 66.123 Wis. Stats. In the event of a fire emergency, the Fire Chief and members of the Fire Department may access property to extinguish uncontrolled fire in order to protect the safety of persons and property.

(10) PENALTY FOR VIOLATION

(a) In addition to, and separate from, the possible liability referred to in (b) and (c), violations of this ordinance shall be punishable as Class D forfeitures, TCG § 25.04.

(b) Any violation of this ordinance shall result in the permit being revoked, and the fire being extinguished.

(c) The permit holder, or responsible party where a permit was not obtained, will be liable for any and all costs incurred by the Town in responding to and extinguishing any outdoor or open burning which is in violation of this ordinance, and any other liability resulting from damage caused by the fire.

(11) EFFECTIVE DATE

(a) Original ordinance adopted May 21, 2001

(b) Amended January 4, 201, January 6, 2014 and January 20, 2020

(c) This section shall take effect upon passage and posting and/or publication (if required).

11.03 FENCING OF HAZARDOUS AREAS

(1) DEFINITIONS

(a) "Fence" means a fixed barrier which shall not be less than four feet in height, and shall be constructed of welded wire, or similar materials which would provide similar strength; and shall have openings no greater than that found in a woven wire fence that met the specifications of the Wisconsin department of transportation (DOT) for right-of-way fencing. A current copy of DOT standard detail drawing 15 B 1 is attached as Appendix 11-B, with the same force and effect as if it were fully reprinted herein.

(b) "Gate" means a rigid, movable barrier which shall not be less than 4 feet in height; and shall be constructed of sturdy materials which would provide similar strength and design as that found in an agricultural pipe gate.

(c) "Hazardous area" means any area whose natural topography has been altered by the activities of the landowner, lessee, tenant, or other person, either now or prior to the effective date of this ordinance, such that; a slope of 2 to 1 or less, exists a distance of at least ten feet along the top of the slope; and the overall height of the slope is more than eight feet.

(2) FENCING REQUIREMENTS

(a) All landowners, or any person who has created a hazardous area on any land within the Town, shall fence the hazardous area within 30 days from the effective date of this ordinance. The fence shall be posted with "warning" signs that meet, or exceed, the sign specifications under § 943.13(2)(am) Wis. Stats.

(b) All fencing shall be erected and maintained no less than ten feet from the top edge of a slope described in (1)(c); and be of sufficient length and contour to effectively obstruct access to the hazardous area, along the top edge of the slope.

(c) A gate shall be erected across all access roads, which shall be kept closed and locked with a padlock, or similar device, whenever there is no authorized activity being conducted on the site.

(d) In addition to the requirements of this ordinance, all applicable regulations of the Wisconsin Department of Industry, Labor and Human Relations (DILHR); the Wisconsin Department of Natural Resources (WDNR); and the U.S. Department of Labor, Mine Safety and Health Administration (MSHA), are hereby adopted and made a part of this ordinance with the same force and effect as if they were fully reprinted herein, and shall be complied with by the person described in (a).

(3) PENALTY FOR VIOLATION

In addition to, and separate from, the possible liability from a failure to comply with any DILHR, WDNR, or MSHA regulation; violations of this ordinance shall be punishable as class B forfeitures, under TCG § 25.04.

(4) EFFECTIVE DATE

(a) The original ordinance was adopted on June 7, 1993.

(b) This section shall take effect upon passage and publication.

11.04 REGULATION OF MASSAGE ESTABLISHMENTS AND TECHNICIANS

(1) DEFINITIONS

(a) "Massage" means a rubbing, kneading, etc., of a part of the body of one person, by another; by any means, physical or mechanical.

(b) "Massage establishment" means a place of business, not otherwise regulated under Ch. 448 Wis. Stats., where a massage is made available for a consideration.

(c) "Massage technician" means any person, not otherwise regulated under Ch. 448 Wis. Stats., who administers a massage for a consideration; whether or not they are employed in a massage establishment.

(d) "Operator" means any person licensed by the Town Board to operate a massage establishment.

(e) "Patron" means any person who receives a massage from a massage technician, under any circumstances.

(2) LICENSE REQUIREMENTS

(a) No person shall operate a massage establishment, or act as a massage technician within the town limits, until such time as a license is issued for that activity from the town. Application shall be made to the Town Clerk; using a form developed and approved by the Town Board.

(b) All licensed premises shall have an operating, toll free telephone within the premises, to summon help in an emergency.

(3) FEES

(a) A fee, as specified in TCG § 07.02(11), shall accompany each application for a massage establishment, massage technician, and operator's license. The fee for each of these licenses shall be specified on the application, and shall be paid to the town treasurer in US currency, money order or check payable to: the Town of Cottage Grove. An itemized receipt shall be provided for all currency received.

(b) Each license shall have its own fee structure. Any person required to hold more than one license, shall pay the appropriate fee for each.

(4) LICENSING PERIOD

All massage establishment, massage technician, and operator's licenses issued shall be valid from July 1 of one year, to June 30 of the following year.

(5) ISSUANCE PROCEDURE

(a) The Town Clerk shall provide, at no cost, one copy of this ordinance and the appropriate town application forms to all persons applying for a massage establishment, massage technician, or operator's license.

(b) The Town Board shall review all applications received by the Town Clerk, and shall schedule a public hearing to hear any community concerns, prior to acting on any application.

(c) No license shall be issued to any premises for which taxes, assessments, or other claims of the town are delinquent and unpaid; or to any person delinquent in payment of such claims.

(d) No license shall be issued to any person who has an arrest and conviction record which, in the opinion of the Town Board, disqualifies them from holding such license.

(e) No massage technician license, shall be issued to any person who has not submitted a certificate from a licensed physician that the applicant has had a complete physical examination, including blood screens within the past 30 days; and that the examining physician has found the applicant to be free of communicable diseases.

(6) PENALTY FOR VIOLATION

In addition to, and separate from, any penalties set forth in state statutes, and county ordinances;

violations of this ordinance shall be punishable as Class B forfeitures, under TCG § 25.04.

(7) EFFECTIVE DATE

- (a) The original ordinance was adopted March 3, 1975.
- (b) This section shall take effect upon passage and publication.

11.05 CONTROL OF NOXIOUS AND NUISANCE WEEDS

(1) DEFINITIONS

- (a) "Noxious weeds" means the following: Canada thistle, leafy spurge, field bindweed (creeping Jenny), cannabis (marijuana/hemp), and any other such weeds as may be specified in § 66.0407(1)(b), Stats.
- (b) "Nuisance weeds" means any non-native member of the genus *Lythrum* (purple loosestrife) or hybrids thereof, and multiflora rose; along with any other weeds allowed to grow to such a height and density, that would interfere with the sight distance at a highway intersection, or would otherwise create a public nuisance, as defined in 11.06(1).
- (c) "Weed Commissioner" means the person designated by the Town Chair, under § 66.0517 Wis. Stats.; having the duties and powers specified in (2)(c) and (2)(d), and § 66.0517 Wis. Stats.

(2) WEED COMMISSIONER

- (a) The Weed Commissioner shall be appointed annually by the Town Chair on or before May 15; and shall have the duties and powers specified in § 66.0517 Wis. Stats., in addition to those specified in (c) and (d) below.
- (b) At the same time the Weed Commissioner is appointed; a class 2 notice shall be published specifying that every person that owns, occupies, or controls lands within the town limits is required by law to destroy all noxious weeds, as described in (1)(a); and that all nuisance weeds shall be controlled, as specified by the Weed Commissioner.
- (c) The Weed Commissioner shall review any claim that a growth of nuisance weeds has become a public nuisance, and shall take action to ensure that the nuisance is abated. The control of nuisance weeds, shall follow the procedure for the destruction of noxious weeds, described in § 66.0517 Wis. Stats.
- (d) The Weed Commissioner may request the Highway Superintendent to use Town-owned mowing equipment to control the growth of nuisance weeds, if such use is determined to be the most economical method available; or when the landowner of the parcel cannot be contacted as described in (b).

(3) PENALTY FOR VIOLATION

In addition to, and separate from, any penalty specified in any applicable state statute; violations of this ordinance shall be punishable as Class D forfeitures, under TCG § 25.04.

(4) EFFECTIVE DATE

This section shall take effect upon passage and publication.

11.06 PUBLIC NUISANCES

(1) DEFINITIONS

- (a) "Authorized agent" means employees or designees of the Town of Cottage Grove authorized to administer or enforce this Chapter, including but not limited to law enforcement officers, Building Inspectors, Fire Inspectors, the Highway Superintendent or Weed

Commissioner.

(b) "Public nuisance" means any thing, act, occupation, condition or use of property, which continues for such 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 the use of property.
3. Offend the public morals, or the community's standards of decency.
4. Unlawfully, and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage, any highway, navigable body of water, other public way or property.
5. Generate loud, discordant, and unnecessary noises, or vibrations of any kind; including, but not limited to, sound levels in excess of those specified in Table G-16 of the OSHA General Industry Standards [29 C.F.R. § 1910.95]. A copy of the current Table G-16 is attached as Appendix 11-C, with the same force and effect as if it were fully reprinted herein.

(c) "Public nuisances affecting health" include, but are not limited to, the following:

1. All decayed, harmfully adulterated, or unwholesome food or drink, sold or offered for sale to the public.
2. Carcasses of animals, birds, or fowl not intended and processed for human consumption which are not buried or otherwise disposed of in a sanitary manner, within 24 hours after death.
3. Accumulations of stagnant water within a platted subdivision; in which mosquitoes, flies, or other insects can be expected to breed. Approved retention ponds on public property are exempt from this section.
4. Air emissions in excess of levels permitted by the Wisconsin Department of Natural Resources (DNR).
5. The pollution of any waters of the state, in violation of any DNR regulation.
6. Any use of property, substances, or things within the town limits, emitting any offensive or noxious odor or effluent; which is found to discomfort, annoy, or inconvenience an appreciable number of town residents. All wells, septic tanks, grease traps, cisterns, privy vaults, and day wells not covered or otherwise secured to prevent unauthorized access.

(d) "Public nuisances affecting community morals" include, but are not limited to the following:

1. All lewd acts conducted while in view of the public; whether or not the party involved was in a private residence.
2. All bawdy houses, and any building or structure maintained for the purposes of gambling, prostitution or promiscuous sexual activity.
3. Any place classified as an alcohol beverage establishment, under Ch.125 Wis. Stats. and TCG Ch. 05; that does not have a valid license issued by the town.
4. Any place where town ordinances, or state statutes, are openly, repeatedly, and intentionally violated.

(e) "Public nuisances affecting safety" include, but are not limited to, the following:

1. All signs, awnings, and similar structures, over or adjacent to, parks and other public areas, situated such that they endanger the public.
2. All trees, hedges, signs, or other obstructions adjacent to a highway, which limit the sight distance of any person approaching an intersection.

3. All tree limbs, branches, and other non-conductive obstructions over any highway within the Town limits; less than 14 feet above the paved surface of the highway.
4. All wires, cables, and other conductive obstructions over any highway within the Town limits; less than 18 feet above the paved surface of the highway.
5. All trees which fall in whole, or in part, into the highway right-of way or onto any other public lands.
6. All refrigerators, or other containers with air-tight doors, which are located outside of a residence or other secured structure; which have not had all the doors removed, or are not equipped with a device for opening the door from the inside.

(2) **REGULATION OF PUBLIC NUISANCES**

(a) No person shall create, or maintain, any public nuisance, as described in (1)(b)-(1)(e), within the Town limits.

(b) All sound level monitoring shall be conducted at the property line of the parcel upon which the sound is generated; or at any alternate location determined to be appropriate. All noise levels shall be measured on the A scale of a standard sound level meter at slow response.

(c) Any person in violation of (a) shall be subject to the enforcement procedures set forth in 11.10.

(3) **EFFECTIVE DATE**

(a) The original ordinance was adopted on March 11, 1994 and amended on December 15, 2008 and January 8, 2018.

(b) This section shall take effect upon passage and publication.

11.07 REGULATION OF PEDDLERS AND TRANSIENT MERCHANTS.

(1) **REGISTRATION REQUIRED.**

It shall be unlawful for any transient merchant to engage in sales within the Town limits without being registered for that purpose as provided herein.

(2) **DEFINITIONS**

(a) "Transient merchant" means any individual who engages in the retail sale of merchandise at any place in the Town temporarily, and who does not intend to become and does not become a permanent merchant of such place. For purposes of this section, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

(b) "Permanent merchant" means any person who, for at least six months (i) has continuously operated an established place of business in the local trade area among the communities bordering the place of sale or (ii) has continuously resided in the local trade area among the communities bordering the place of sale and now does business from her/his residence.

(c) "Merchandise" shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of goods by a donor or prospective customer.

(d) "Charitable organization" shall include any benevolent, philanthropic, patriotic, or eleemosynary person, partnership, association or corporation, or one purporting to be such.

- (e) "Clerk" means the Town Clerk.
- (f) "Sales" means solicitation for purchase of services, good or combination thereof.
- (3) EXEMPTIONS.

The following shall be exempt from all provisions of this ordinance.

- (a) Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes;
- (b) Any person selling merchandise at wholesale to dealers or retailers in such merchandise;
- (c) Any person selling agricultural products which that person has grown;
- (d) Any person who has an established place of business where the merchandise being sold is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by said person;
- (e) Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business;
- (f) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law;
- (g) Governmental agents and employees in the performance of their official duties
- (h) Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the clerk proof that such charitable organization is registered under § 440.42 Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under § 440.42 Wis. Stats., shall be required to register under this ordinance;
- (i) This ordinance does not apply to transient merchants while doing business at special events or under other licenses authorized by the Town Board.

(4) REGISTRATION.

- (a) Applicants for registration must complete and return to the Town Clerk a registration form which shall require the following information:
 - 1. name, permanent address and telephone number, and temporary address, if any;
 - 2. age, height, weight, color of hair and eyes, and sex;
 - 3. name, address and telephone number of the person, firm, association or corporation that the transient merchant represents or is employed by, or whose merchandise is being sold;
 - 4. temporary address and telephone number from which business will be conducted, if any;
 - 5. nature of business to be conducted and a brief description of the merchandise, and any services offered;
 - 6. proposed methods of delivery of merchandise, if applicable;
 - 7. make, model and license number of any vehicle to be used by applicant in the conduct of her/his business;
 - 8. most recent cities, villages, towns, not to exceed three, where applicant conducted her/his business;
 - 9. place where applicant can be contacted for at least seven days after leaving the Town;

10. statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's transient merchant business within the last five years, and the nature of the offense and the place of conviction.

(b) Applicants shall present to the Town Clerk for examination:

1. a driver's license or some other proof of identity as may be reasonably required;
2. a state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities;
3. a state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application license is made.

(c) At the time of license registration, a fee shall be paid to the clerk to cover the cost of processing said registration. The registration fee shall be set by resolution of the Town Board.

(d) Upon payment of said fee and satisfactory completion of the investigation under section (5) below, the clerk shall register the applicant as a transient merchant and date the entry. Said registration shall be valid for a period of one year from the date of entry, unless revoked as provided below.

(e) Any person refused or denied registration may appeal the denial to the Town Board, which shall follow the procedure set forth under section (7) below.

(5) INVESTIGATION.

(a) Upon receipt of each application, the Town Clerk may refer it immediately to the Dane County Sheriff's Department, which may make and complete an investigation of the statements made in such registration.

(b) The Town Clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; complaints of a material nature have been made against the applicant by authorities in the most recent cities, villages and towns, in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or the applicant failed to comply with any applicable provision of section (4) above.

(c) The Dane County Sheriff, or designee, shall report to the Town Clerk any charges or convictions under this ordinance and the Town Clerk shall note any such violation on the record of the transient merchant.

(6) REGULATION OF TRANSIENT MERCHANTS.

(a) Prohibited Practices.

1. A transient merchant shall not: call at any dwelling or other place between the hours of 9:00 P.M. and 9:00 A.M. except by appointment; call at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; call at the rear door of any dwelling place; or remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
2. A transient merchant shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or characteristics of any

merchandise offered for sale, the purpose of her/his visit, her/his identity or the identity of the organization she/he represents. If requested, a charitable organization transient merchant shall specifically disclose what portion of the sale price of the merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.

3. No transient merchant shall by his or her activities impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
4. No transient merchant shall make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
5. No transient merchant shall allow rubbish or litter to accumulate in or around the area in which she/he is conducting business.

(b) Disclosure Requirements.

1. During all transactions, a transient merchant shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.
2. The transient merchant shall comply with all consumer protections laws, including but not limited to the requirements for consumer approval transactions under Chapter 423 of the Wisconsin Statutes, as may be amended.
3. If the transient merchant takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance whether full, partial, or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guarantee or warranty is provided and, if so, the terms thereof.

(7) REVOCATION OF REGISTRATION.

(a) Registration may be revoked by the Town Board after notice and hearing, if the registrant made any material omission or materially inaccurate statements in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in transient sales, violated any provision of this Ordinance or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in selling. A signed statement or complaint setting forth the request and/or basis for license revocation may be made by the Town Clerk, Dane County Sheriff or other Town resident.

(b) Written notice of the hearing shall be served personally or via U.S. Mail to the transient merchant's permanent address at least seventy-two (72) hours prior to the time set for the hearing. Such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based. The hearing shall be in front of the Town Board. The complainant and transient merchant may present and cross examine witnesses, and present other information to the Town Board.

(8) PENALTY.

The penalty for violation of this Ordinance as provided in TCG § 25.04 shall be a Class of "B" forfeiture.

(9) SEVERANCE CLAUSE.

The provisions of this ordinance are declared to be severable, and if any section, sentence, clause

or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance; they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

(10) EFFECTIVE DATE.

This ordinance shall take effect upon passage and publication.

11.08 FALSE ALARMS PROHIBITED

(1) DEFINITIONS

(a) “False Signal” means any signal which is emitted by an intrusion, fire, holdup or other alarm system which is not the result of an intrusion by persons, a fire, or a holdup. A signal is emitted for the purposes of this ordinance when it is directly transmitted to a Law Enforcement Department or Fire Department or transmitted to any person who subsequently reports such signal to a Law Enforcement Department or Fire Department.

(b) “Owner” means the person or legal entity that owns the property from which the false signal is emitted, except that, if the premises are leased or rented, the lessee or occupant of the property or part thereof from which the false signal is emitted shall be deemed the owner.

(2) FALSE ALARMS PROHIBITED

No person shall permit an intrusion, fire, holdup alarm or any other alarm system to repeatedly emit false signals.

(3) RESPONSIBILITY FOR OPERATION OF ALARM SYSTEMS.

(a) Upon a finding that a signal from an alarm system is a false signal, the Law Enforcement Department shall notify the building owner of the false signal. It shall then be the responsibility of the owner to secure the building and prevent additional false signals. A second or subsequent false alarm within a twelve-hour period shall constitute a violation of this ordinance and the building owner shall be liable for such violation.

(b) No building owner shall permit an alarm system to emit more than three false signals during any sixty-day period. A fourth false signal during a sixty-day period shall constitute a violation of this ordinance and the building owner shall be liable for such violation.

(4) PENALTY FOR VIOLATION

Any violation of this ordinance shall be subject to a Class C forfeiture as specified in TCG § 25.04(1)(b). Each and every day such violation thereafter shall be considered a separate offense.

(5) EFFECTIVE DATE

(a) The original ordinance was adopted November 17, 2008

(b) This section shall take effect upon passage and publication.

11.09 PROPERTY MAINTENANCE

(1) PURPOSE.

(a) The general purpose of this Ordinance is to protect and enhance the public health, safety, and general welfare of the residents of the Town by establishing minimum standards for maintenance of premises.

(B) To further its general purpose, this Ordinance has the following objective: To provide a means to declare that certain land, buildings and structures are detrimental to the health, safety and

general welfare of the residents of this community, and require that the community standards set forth in this Ordinance be enforced.

(2) **APPLICABILITY.**

This Ordinance shall apply to all land, buildings, and structures (sometimes referred to collectively herein as “premises”) in the Town, without regard to its class or its date of construction, alteration, or repair. The Owner of same shall be responsible for insuring that the Premises conform to the requirements of this Ordinance.

(3) **INTERPRETATION.**

This Ordinance is not intended to replace or modify standards otherwise established for the construction, replacement or repair of buildings and structures. However, in the event there is any inconsistency or conflict between the provisions of this Ordinance and any other existing Town Ordinance, the more restrictive provisions shall apply.

(4) **DEFINITIONS.**

(a) **Owner.** Any person who alone, jointly, or severally with others, shall hold title to premises, or who shall be in actual possession of, or have charge, care or control of premises as an employee or agent of the title holder, or who shall be trustee or guardian of the estate or person of the title holder. For purposes of providing notice under this Ordinance, the Town may rely on the presumption that the owner is the person or persons designated on the tax roll with respect to the premises.

(b) **Occupant.** Any person occupying or having use of premises or any part thereof.

(c) **Operator.** Operators shall mean any person who has apparent authority for charge, care or control of premises or any part thereof.

(5) **COMPLIANCE IS RESPONSIBILITY OF OWNERS.**

Each owner of the premises shall have an independent responsibility for compliance. All owners shall be jointly and severally responsible for performance of the duties and obligations prescribed in this Ordinance. No owner shall be relieved from any such duty or obligation because another person is also responsible for performance of such duty or obligation. No owner shall be relieved from liability under this Ordinance because said person has contracted said responsibility to an operator or other person.

(6) **MAINTENANCE AND APPEARANCE OF EXTERIOR OF BUILDINGS AND STRUCTURES.**

(a) The exterior appearance of all buildings and structures shall reflect a level of maintenance in keeping with the standards of the neighborhood, and shall not constitute a blighting factor or an element leading to the progressive deterioration of the neighborhood.

(b) Buildings and structures shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.

(7) **MAINTENANCE AND APPEARANCE OF LAND.**

Lawn, hedges, bushes and plantings shall be kept trimmed and shall not be allowed to become overgrown and unsightly or allowed to obstruct pedestrians' or vehicles' view.

(8) **ADMINISTRATIVE PROVISIONS.**

(a) The Town Board or its designated representative is hereby made responsible for the enforcement of this Ordinance. All inspections, enforcement, orders or matters relating to

violations of this Ordinance shall be under their direction and supervision. They may request other public officials or employees of the Town to perform duties as they deem necessary to the enforcement.

(b) The Town or its designated representative is authorized to make inspections of the exterior of any premises for the sole purpose of determining whether the premises conform to the requirements of this Ordinance. Town residents may register complaints of violations of this Ordinance to the Town Clerk, in writing, in person, by email or by telephone.

(c) Any designated representative of the Town Board shall be supplied with official identification and shall exhibit such identification to the owner, operator or occupant upon request.

(d) Any person in violation of any provision of this Ordinance shall be subject to the enforcement procedures set forth in 11.10.

(9) **EFFECTIVE DATE**

(a) The original ordinance was adopted on May 7, 2012 and amended on January 8, 2018

(b) This section shall take effect upon passage and publication.

11.10 ENFORCEMENT AND PENALTIES

Any property owner or other individual found to be in violation of any provision of TCG §§ 11.01, 11.06 or 11.09 is subject to the following enforcement procedure and penalties:

(1) **PRELIMINARY NOTICE OF COMPLAINT.**

If, upon receipt of a verified complaint, the Town Board or its designated representative determines that there are grounds to believe that there has been a violation of any provisions of TCG §§ 11.01, 11.06 or 11.09, notice of the violation(s) shall be given to the owner(s). The preliminary notice shall:

(a) Be in writing;

(a) Indicate the nature of the alleged violation(s);

(b) Indicate the time for correction or abatement of the alleged violation(s).

(2) **NOTICE OF VIOLATION.**

If the property owner or individual does not correct or abate the alleged violation(s) within the timeline set forth in the Preliminary Notice of Complaint, the Town Board shall designate an individual(s) to perform an inspection of the premises. If, the designated representative(s) of the Town Board, upon inspection of the premises, determines there is a violation of TCG §§ 11.01, 11.06 or 11.09, the designated representative(s) of the Town Board shall instruct the Clerk to send a Notice of Violation. The notice of violation shall:

(a) Be in writing;

(b) Indicate the nature of the alleged violation(s);

(c) Indicate the time for the correction or abatement of the alleged violation(s) and/or submission of a plan to correct the alleged violation(s), which time shall not be less than 20 days nor more than 40 days;

(d) Be served upon the owner in the following manner:

1. Given to the owner by a law enforcement officer; or

2. Sent by U.S. mail or by a commercial delivery service to the owner's last known address, as said address appears on the tax rolls. A tracking mail receipt and an

affidavit of mailing shall be sufficient evidence of service, which service shall be deemed effective within five business days of the date of mailing.

(e) Advise the owner of the owner's right to request a hearing before the Town Board and further advise the owner that the owner's failure to make such a request shall result in the notice of violation being deemed an order of violation.

(3) **PLACARD ON BUILDING.**

(a) If the owner is notified of a violation of TCG § 11.09, law enforcement officer shall cause to be placed upon a building, structure or premises a "red tag" placard, which shall provide notice of the violation(s), whenever all of the following occur:

1. Any building, structure or premise does not substantially comply with the requirements of this Ordinance; and
2. Notice of the violation(s) involved has been served upon the owner as provided for in section (2) above; and
3. The owner has failed to timely correct, or timely provide a satisfactory plan to correct, the violation(s) set forth in said notice; and
4. The designated representative(s) of the Town Board has determined that the building, structure, or premises are so damaged, decayed, dilapidated, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public, and is therefore unfit for use of occupancy.

(b) The form of the "red tag" placard shall be determined by the designated representative(s) of the Town Board and shall substantially state the specific violation(s) of this Ordinance.

(c) No person shall deface or remove the "red tag" placard from any building, structure or premise until removal of such placard is authorized by the designated representative(s) of the Town Board.

(4) **NONCOMPLIANCE - REMEDY OF DEFECTS; ABATEMENT**

(a) The owner of the premises shall have the time specified in the notice of violation to remedy the violation(s).

(a) The Town Board or their designated representative(s) shall have the ability to extend the time for corrections if the circumstances warrant an extension and the owner is making a good faith effort to correct the violation(s).

(b) If the owner of the premises, after notice of violation and order, fails or refuses to timely remedy the violation(s), then the Town Board, at its sole option, may cause such work to be done. Prior to commencing such work, the Town Clerk shall provide notice to the owner that the Town will abate the violation(s). This notice shall include:

1. An estimate of the approximate dates and times during which abatement will occur.
2. The approximate cost for any such work done, including reasonable costs for administration, inspection and legal fees (collectively, "costs of abatement").

(c) Following such notice, the owner shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violation(s). Failure of an owner to permit such access shall constitute a violation of this Ordinance, and may also result in the Town obtaining an injunction from Dane County Circuit Court. Reasonable costs of obtaining the injunction (including legal fees) shall be added to the costs of abatement and notice of the additional costs shall be provided to the owner.

(d) If the owner fails to pay the costs of abatement within 30 days of the notice from the Town Clerk, interest shall accrue against the balance due at the rate of 1% per month and the total balance due shall become a lien against real estate on the next tax roll in accordance with law.

(5) **PENALTIES.**

(a) A violation of any section or subsection of TCG §§ 11.01, 11.06 or 11.09 shall be punishable as a Class D forfeiture under TCG § 25.04, plus reasonable costs of inspection and prosecution.

(a) Each day a violation exists after the notice of violation shall constitute a separate violation of this Ordinance.

(b) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Ordinance or otherwise.

(c) **SEVERABILITY**

If any section, subsection, paragraph, clause, sentence, phrase or word contained in this Ordinance is declared invalid, the remaining portions of the Ordinance shall remain in full force and effect.