

TOWN OF BLOOM

ORDINANCE NO. 2014 - 02

AN ORDINANCE REGULATING TO THE ACCUMULATION OR STORAGE OF JUNK VEHICLES, JUNK FARM MACHINERY, RUBBISH OR DEBRIS IN THE TOWN OF BLOOM

The Town Board of Supervisors of the Town of Bloom, Richland County, Wisconsin, does ordain as follows:

FINDINGS AND DECLARATION OF POLICY.

The Town Board of the Town of Bloom finds and declares that the accumulation or storage of junk or partially dismantled vehicles, junk farm machinery, rubbish and debris in the open are a threat to the health, safety, morals and public welfare. Such items can produce unpleasant or noxious odors; can collect and conceal filthy deposits; can provide breeding areas for mosquitos and other obnoxious and/or disease carrying insects; can provide shelter for and thereby encourage infestation by undesirable rodents and other undesirable animal life; can be attractive nuisances which pose dangers to children; and can result in blighted properties which may negatively affect the value of other properties in the vicinity and which may result in significant and unnecessary costs to the public to clean up. The Town of Bloom hereby finds and declares that such items accumulated or stored outside fully enclosed buildings constitute public nuisances within said Town.

SECTION I: AUTHORITY

Pursuant to Sections 66.0405 and 175.25 of the Wisconsin Statutes and as an exercise of the police power vested by law in the Town, the Town Board hereby elects to provide the authority for the town to regulate the accumulation, storage and/or disposal of junk vehicles or partially dismantled vehicles, junk farm machinery, rubbish and debris or parts thereof, in the open on any real estate located within the Town of Bloom. This ordinance supercedes a previous junk vehicle ordinance passed by the Town Board on May 16, 2001 and Ordinance no. 2007-05.

SECTION II: DEFINITIONS

In this ordinance the following definitions of terms shall apply:

2.1 "Debris" means and includes broken or otherwise dilapidated furniture; appliances; electronic devices; building material or building components; scrap metal; damaged, inoperable or unusable boats or other recreational items, damaged or unusable mobile homes or manufactured homes, or any accumulation of metal, paper, cardboard, plastic, wood, trash, rubbish or lumber or other waste materials having little or no value.

2.4 "Farm machinery" means a vehicle or piece of equipment or machinery designed to be used primarily in agricultural operations and typically used principally off the highway. For the purpose of this

ordinance, this definition shall include farm tractors, trailers and wagons and tractor-drawn or self propelled equipment.

2.5 "In the open" means storage outside of any structure enclosed on all sides and covered by a roof, or in any shed, carport, or other similar structure that is not fully enclosed by four walls and a roof, or in any structure on which the doors or other access cannot be completely closed.

2.6 "Junk farm machinery" means any item of farm machinery or part thereof which in its current condition is incapable of operation for its intended agricultural purposes or which is dismantled or partially dismantled or part thereof.

2.7 "Junk vehicle" means any of the following:

- (1) A motor vehicle which will not start or run or will not move under it's own power, or
- (2) A motor vehicle which has doors, hood, fenders, trunk lids, tires, wheels, engine, transmission or other major components removed, or
- (3) A motor vehicle which has one or more windows broken or removed; or
- (4) A motor vehicle which is not currently registered and displaying current registration plates, or
- (6) A motor vehicle which has or which evidences wild animals or vermin frequenting or inhabiting the engine compartment, the passenger compartment or any other interior area of the vehicle, or
- (7) Any component of a motor vehicle which has been removed from a vehicle, such as a door, hood, fender, trunk lid, tires, wheels, engine, transmission or other major components.
- (8) Any combination of the previous seven elements.

2.8 "Motor vehicle" means a vehicle which is self-propelled and shall, for the purpose of this ordinance, include automobiles, motor trucks, truck tractors, semi-tractors, snowmobiles, all-terrain vehicles, motorcycles, motor homes, scooters and tracked vehicles.

SECTION III: RESTRICTION ON ACCUMULATING OR STORING JUNK MOTOR VEHICLES, JUNK FARM MACHINERY OR RUBBISH OR DEBRIS

3.1 Except with a permit as provided in Section IV, no person, partnership, corporation, limited liability company, voluntary association, trust or other legal entity shall do any of the following:

- (1) Accumulate or store or allow to be accumulated or stored in the open any junk motor vehicle or part or component of any motor vehicle, any junk farm machinery or part thereof, or any other rubbish or debris on any real estate owned, occupied or controlled by him, her or it located within the Town of Bloom except pursuant to a storage permit issued by the Town Board.

(2) Accumulate or store or allow to be accumulated or stored in the open upon real estate owned or occupied by him, her or it any junk motor vehicle or part thereof, or any junk farm machinery or part thereof, or any other unsightly rubbish or debris, within 750 feet of the centerline of any county trunk highway or state trunk highway; or within 500 feet of the centerline of any town road, except with a permit issued by the Town Board.

(3) Operate a commercial operation which stores junk motor vehicles, junk farm machinery or rubbish or debris, whether or not in existence upon the effective date of this ordinance. No such operation shall be entitled to a permit or to continue operations merely by virtue of its existence upon such effective date. Any such operation continuing to operate without a permit after the effective date of this ordinance in violation of this ordinance and may be cited for a violation occurring at any time after such effective date.

3.2 Any accumulation or storage of any junk automobiles, motor vehicles, farm machinery, parts thereof, or any other unsightly rubbish or rubbish or debris not permitted herein shall be and hereby also is declared a public nuisance.

SECTION IV: EXCEPTIONS TO SECTION III PURSUANT TO STORAGE PERMIT

4.1 Any person requesting to store any junk motor vehicles, junk farm machinery, or parts thereof outside an enclosed building or in the open may apply to the Town Board for a permit.

4.2 The written application for a permit shall include the type, quantity, and manner of storing the desired items or rubbish or debris.

4.3 The Town Board may, in its discretion, grant or deny a permit. In deciding whether to grant or deny a permit it shall consider the health, safety and public welfare of the proposed storage application. The Town Board may specify in the permit additional conditions relating to the stored items, as the Board deems advisable for the protection of the health, safety, and public welfare. Any permit issued by the Town Board shall be signed by the Town Chairman and Clerk, and shall specify the quantity and manner of storing the items in question.

4.4 The fee for a permit issued by the Town Board shall be set by the Town Board by resolution, and each permit shall expire on December 31 following its issuance, unless a different expiration date is specified by the Town Board when the permit is issued. Permit holders shall be required to apply for renewal of any such permit upon its expiration, and no permit will extend beyond December 31 of the year in which it was issued.

4.5 A storage permit may be revoked at any time by the Town Board, after a hearing at which it has been found the permit holder has failed or refused to comply with any ordinances or any other regulations or conditions of a permit restricting or relating to the storage of such junk items. Such hearing may be held by the Town Board upon its own motion or upon a complaint, in writing, and signed by a complainant. Such motion or complaint shall state the nature of the alleged failure to comply with ordinances, regulations or permit conditions. A copy of the complaint together with a notice of the hearing shall be served upon the permit holder not less than seven (7) days before the date of the hearing. The permit holder shall have the right to appear at such hearing and to be heard in regard to the proposed

revocation action.

SECTION V: AUTHORITY OF TOWN TO REMOVE AND DISPOSE OF OFFENDING MATERIALS; SPECIAL CHARGE AGAINST OFFENDING PROPERTY.

5.1 If the owner, occupant or person in charge of any real estate in the Town of Bloom shall violate Section III, the Town Board may but is not required to cause the removal and disposition of the offending items or material from such real estate.

5.2 Prior to such removal, the Town shall notify the owner of the real estate of its intent to proceed under this section. Such notification to the landowner shall be by 1st class mail addressed to the landowner at the address shown by the records of the Richland County Treasurer for mailing of real estate tax bills for the property.

5.3 After such removal and disposition has been done, the Town Clerk shall prepare a report in writing setting forth all costs incurred therefor and send a bill to the landowner. If the costs thereof are not paid by the landowner within 30 days after billing therefor is mailed to the landowner at the address shown by the records of the Richland County Treasurer for mailing of real estate tax bills for the property, the special charge is delinquent and the costs thereof shall be a special charge against the real property from which the materials are removed and shall become a lien against the property against which it is imposed as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under chap. 74, Wis. Stats.

5.4 The cost of such removal and disposition shall be calculated as follows:

(1) If all or part of the removal and disposition is done by contract with a third party, the cost shall be the actual costs paid to the contractor.

(2) If all or part of the removal and disposition is done by Town employees, the cost for the Town employees shall be based upon the hours expended and equipment used, priced at the current Wisconsin state equipment rates for equipment used and for labor at the current Town employee labor rates as set by the Town Board.

(3) All costs incurred for tipping fees or similar disposal expenses shall be included in the calculation of the costs for which the landowner is liable.

SECTION VI. PENALTY PROVISIONS

6.1 Forfeiture. Any person, partnership, corporation, limited liability company, voluntary association or other legal entity who shall violate or fail or refuse to comply with any section of this ordinance may be prosecuted for such violation and shall, upon conviction, forfeit to the Town of Bloom not less than \$100.00 nor more than \$400.00, plus all applicable costs, fees and surcharges imposed under Ch. 814 Wis. Stats., and in the event such forfeiture, costs, fees and surcharges are not paid, such person, any partner of such partnership, or any officer, director or managing member of any corporation or limited liability company or any officer of such voluntary association may, upon order of the Circuit

Court, be imprisoned in the Richland County jail until such forfeiture, costs and assessment are paid, but not to exceed 90 days, or may be subject to any other sanctions imposed by the Court for such failure to pay. Each day that a violation is maintained or permitted to exist shall constitute a separate violation. Where the owner of real estate upon which a violation of this ordinance exists is not the occupant of the real estate, as where the occupant is a renter, either the owner or the occupant or both may be prosecuted for a violation of this ordinance.

6.2 An action to impose a forfeiture may be commenced either by a citation issued by a Town Supervisor or by a complaint filed by the Town's attorney.

6.3 Other Remedies. In addition to or as an alternative to the imposition of a forfeiture or other procedures under this ordinance the Town of Bloom may, in circumstances deemed appropriate by the Town Board, proceed by court action against any violation or violator of this Chapter for injunction or other legal remedy available to the Town.

6.4 Remedies Not Exclusive. An action seeking other remedies shall not be deemed waived by the Town by the imposition of a forfeiture for the same violation, nor shall imposition of a forfeiture be deemed a waiver of or a bar to a proceeding for other remedies, including removal and disposition pursuant to Section V.

SECTION VII. NON-EXCLUSIVITY OF ORDINANCE OR REMEDIES

7.1 Adoption of this ordinance does not preclude the Town Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

7.2 The issuance of a citation or a summons for a violation of this ordinance shall not bar or preclude the Town Board or any authorized officer of the Town from bringing suit for abatement of a nuisance or proceeding by any other legally permitted enforcement method to enforce this ordinance.

SECTION VIII. SEVERABILITY

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

SECTION IX. PRIOR ORDINANCE SUPERSEDED

This ordinance supersedes Town of Bloom Ordinance No. 2007-05 except that any condition or use in existence as of the effective date of this ordinance which was in violation of the former ordinance and which also is in violation of the terms of this ordinance shall not be validated as a result of enactment of this ordinance.

SECTION X. EFFECTIVE DATE

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

The foregoing ordinance was adopted at a regular meeting of the Town Board of the Town of Bloom on January 21, 2014.

Vote for: X against _____

Calvin Brown
Town Chairman

Stuart A. Mills
Town Supervisor

Charles D. Davis
Town Supervisor

ATTEST:

Betty Schuige
Town Clerk