

CHAPTER 8

POLICE ORDINANCES

8.1 OPEN BURNING AND FIRE CONTROL

(1) Prohibition. No person may build, start, maintain or set an open fire in the Town of Black Earth except as expressly permitted in this ordinance.

(2) Permits. Persons who wish to set or use fire in a manner which is authorized in this ordinance may obtain a permit from the municipal fire department serving the property. The permit shall be obtained, free of charge, from the appropriate Fire Chief or the Chief's designee. The permit authorizes its holder to set and use fire only as specified in the permit. The permit may contain any appropriate conditions for protection of the public, such as making fire extinguishers available and providing appropriate personnel to supervise the burn. The permit does not constitute a determination that any particular fire is safe.

(3) Authorized Fires. The following uses of fire are authorized if a permit for the same has been issued by the Fire Chief or designee:

(a) Controlled burning of grass and vegetation, with permission of the landowner, for environmental management purposes, provided that fire suppression equipment and personnel are available at all times as directed by the permit.

(b) Campfires in fire pits located in established campgrounds or parks, which shall not require a permit.

(c) Ceremonial bonfires; and campfires. Campfires require a permit if the campfire is more than five feet in diameter, or is constructed outside of a fireplace, pit or enclosure.

(d) Controlled burning of dry leaves and other non-offensive yard waste, except that no burning may occur on days on which the prevailing winds may endanger others or cause spread of the fire. Any such burning shall take place not less than 30 feet from any residence, and off of the pavement or curb of the road. No household waste or chemicals may be incinerated in such a burn.

(e) Operation of an incinerator or refuse burning barrel, without a permit, if the device has a fireproof wire mesh cover and air opening of no more than one-half inch in diameter. However, the only materials which may be incinerated are unpainted and untreated wood, paper or cardboard generated by the property owner. No person may burn wet rubbish, oils or petrochemicals; asphalt, plastic or rubber products. Burning barrels shall be located at least 30 feet from adjoining residences

and five (5) feet from property lines, and may be placed only in side yards or rear yards.

(f) Other burning as authorized on a one-time basis by the Fire Chief or designee, but not as an alternative to recycling or proper household waste disposal.

(4) The Fire Chief shall have the authority to ban all outdoor fires during periods of dry or windy weather when the Fire Chief determines that it is necessary to do so for the protection of the public.

(5) Any person setting or maintaining a fire is strictly responsible for all damages caused by that fire. Any person who has been determined to have caused fire damage to the property or person of another may be barred by the Fire Chief from obtaining any permits under this ordinance. Such person may be restored to burning privileges by the Board if the Board determines that the person has provided reasonable assurances that they will exercise their burning privileges reasonably.

8.2 DOGS BARKING OR AT LARGE

(1) No person may cause, allow or permit a dog owned by the person to run at large in the public streets or highways, or on the property of others without the property owner's permission.

(2) No person may cause, allow or permit a dog owned by the person to bark for a period of time in excess of five minutes, except while the dog is actively engaged in lawful hunting or tracking activities.

8.3 VANDALISM AND GRAFFITI.

(1) No person may intentionally destroy or damage the property of another, or deface the property of another by writing, painting, marking, scratching or otherwise making any mark or drawing on such property.

(2) Any person who violates subsection (1) shall be required to forfeit an amount as prescribed in the Fee Schedule. In addition to any other penalties imposed by law, upon conviction, such violator shall be required to pay the entire cost of repairing, replacing, cleaning or otherwise restoring the damaged, destroyed or defaced property to its original condition. If the violator is under eighteen (18) years of age, the parents or guardians of the violator shall be liable for such damages.

8.4 DEPOSITING POLLUTANTS AND FOREIGN MATERIALS.

(1) No person may deposit, leave, discharge or place any of the following materials in a roadway, cemetery, park, or on the property of another:

- (a) household garbage;
- (b) any chemical for which a materials safety data sheet exists and is required to be maintained by the Community Right to Know Act;
- (c) industrial sludge, effluent, residue or matter, the disposal of which is regulated by federal or Wisconsin law.

(2) This ordinance does not apply to:

- (a) Application of agricultural or lawn treatment chemicals in a manner which is consistent with their labeling;
- (b) Storage of materials at a recycling center or a licensed solid waste disposal site;
- (c) Disposal of industrial wastes or other sludge in a manner which is approved by the Wisconsin Department of Natural Resources, provided that all reasonable efforts are made to reduce odors and to prevent any run-off of such sludge.

(3) Any person who violates subsection (1) shall be required to forfeit an amount as prescribed in the Fee Schedule and shall be required to reimburse any party which abates the pollution for the actual cost of such abatement.

8.5 ENFORCEMENT.

(1) The Dane County Sheriff's Department is hereby expressly authorized and requested to enforce these ordinances when it may appear that a violation of the same has occurred.

(2) The Board may enforce these ordinances by directing the Town Attorney to commence a forfeiture action pursuant to Wisconsin Statutes.

(3) If the Town of Black Earth shall incur any expense in abating a nuisance or otherwise remedying a deficiency which is a violation of these ordinances, the offender shall reimburse the Town. If the offender fails to do so, the Town may collect the unpaid amounts as special charges against any real property owned by the offender which is located in the Town.

(4) Pursuant to secs. 60.23(23) and 66.119, Wis. Stats., the Town Board of the Town of Black Earth hereby elects to utilize the citation method of enforcement of those ordinances of the Town which have a forfeiture penalty.

(5) The forms used to issue citations shall include the following:

- (a) The name and address of the alleged violator.

- (b) The factual allegations describing the alleged violation.
- (c) The time and place of the offense.
- (d) The section of the ordinance violated.
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- (f) The time at which the alleged violator may appear in Court.
- (g) A statement which in essence informs the alleged violator:
 - i. That the alleged violator may make a cash deposit of a specified amount to be mailed to a specified official within a specified time.
 - ii. That if the alleged violator makes such a deposit, he or she need not appear in Court unless subsequently summoned.
 - iii. That if the alleged violator makes a cash deposit and does not appear in Court, either he or she will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by sec.165.87, Wis. Stats., not to exceed the amount of the deposit or will be summoned into Court to answer the complaint if the court does not accept the plea of no contest.
 - iv. That if the alleged violator does not make a cash deposit and does not appear in Court at the time specified, an action may be commenced against the alleged violator to collect the forfeiture and the penalty assessment imposed by sec. 165.87, Wis. Stats.
 - v. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under (g) above and shall send the signed statement with the cash deposit.
- (h) The form of the citation to be used by Town of Black Earth is on file in the office of the Clerk and is adopted by reference.
- (i) The Town of Black Earth hereby authorizes the Town Road Patrolman to issue citations for violation of Chapter 4 of these Ordinances, related to highways.

8.6 ABANDONMENT OF VEHICLES

(1) No person shall leave unattended any motor vehicle, trailer, semi-trailer, mobile home or other wheeled conveyance on any public highway or private or public property within the Town of Black Earth for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned.

(2) Except as otherwise provided in this subsection, whenever any vehicle has been left unattended without the permission of the property owner for more than twenty-four (24) hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by a duly-authorized Town or county official pursuant to town or county Ordinance.

(3) Impoundment of Abandoned Vehicles. Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under this Section, except that if it is deemed by a duly-authorized Town or county representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the Town or county prior to expiration of the impoundment period upon determination by the sheriff having jurisdiction that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be disposed of in accordance with this section.

(4) Agent of Town For Removal of Abandoned Vehicles. The Town Chairperson, or upon his/her authorization, any other member of the Town Board or the Town Clerk shall be the authorized Town representative to make all determinations required by this Ordinance.

(5) Costs of Impoundment and Forfeiture For Abandoned Vehicles

(a) The owner of any abandoned vehicle shall pay the costs of towing, storage and disposal of the vehicle, as well as any other costs of impounding and disposing of the vehicle.

(b) In addition to the payment of the costs of impounding as required by Section 5(a) hereof, the owner of any abandoned vehicle shall be required to pay to the Town a forfeiture as prescribed in the Fee Schedule.

(6) Notice to Vehicle Owner; Sale of Abandoned Vehicles

(a) Any vehicle which is deemed abandoned by the representative of the Town of Black Earth pursuant to section (4) of this Ordinance shall be kept in storage for at least 10 days after a notice of the impoundment has been sent by certified mail to the vehicle owner at the address shown by the owner on the motor vehicle registration.

(b) The notice shall advise the owner of the owner's right to reclaim the abandoned vehicle upon payment of the accrued costs and forfeiture. The notice shall include the year, make model and serial number of the abandoned vehicle. The notice shall state that the owner's failure to exercise the owner's right to reclaim the vehicle

shall constitute a waiver of all right, title and interest in the motor vehicle, pursuant to sec. 342.40(3)(c), Wis. Stats.

(c) The Town may dispose of any motor vehicle which has not been reclaimed within the 10 day period following mailing of the notice required by this subsection. The Town shall dispose of an abandoned vehicle by auction or sealed bid as the Town deems advisable. The Town may, if no bids are received, junk the vehicle and add the costs of junking the vehicle to the amount owed the Town by the vehicle owner.

(d) If the Town chooses to dispose of an abandoned vehicle by sealed bid or auction, notice of the auction or acceptance of bids shall be given in the same matter as notices of the meetings of the Town Board are made.

(e) In the event the Town sells an abandoned vehicle, the Town Clerk shall advise the Department of Transportation of the sale on a form supplied by the Department of Transportation.

8.7 CONFORMITY WITH SECTION 342.40, WIS. STATS. In addition to the provisions contained herein, all of the provisions of sec. 342.40 of the Wisconsin Statutes are hereby incorporated in this Ordinance, except those which are inconsistent with any of the foregoing provisions. This ordinance shall be construed in conformity with sec. 342.40 except insofar as this ordinance exercises the discretion of the Town to vary from the provisions of that statute.