

Draft for discussion from Town of Cottage Grove

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 s. 340.01(35), 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 s., 289.01(33), 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) 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) NOTICE OF VIOLATION. If, following an inspection, the Building Inspector, Fire Inspector, or Police Officer determines that there are grounds to believe that there has been a violation of any provisions of this Ordinance, notice of such violation shall be given to the owner(s) or occupant(s). 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 and/or submission of a plan to correct the alleged violation, which time shall not be more than 20 days;

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

1. Hand delivered to the owner or occupant by the Building Inspector, Fire Inspector, Police Officer or their designated representative; or

2. Sent by certified mail to the owner's or occupant's last known address, as said address appears on the tax rolls. The certified mail receipt and an affidavit of mailing shall be sufficient evidence of service, which service shall be deemed effective within 5 business days of the date of mailing.

(e) Advise the owner or occupant of the right to request, within 5 business days of the date of service, a hearing before the Town Board and further advise the owner/occupant that the owner/occupant's failure to make such a request shall result in the notice of violation being deemed an order of violation. Such hearing shall be held at the next regular Board meeting, with notice of the hearing date mailed to the owner/occupant's last known address at least 5 days before the hearing.

(f) At such hearing, the owner or occupant shall have an opportunity to present information and witnesses to the Town Board in order to show cause why such notice of violation should not be issued or should be modified. Upon hearing from the owner or occupant, and from the official who issued the notice of violation (the Building Inspector, Fire Inspector, or Police Officer), the Town Board may act to uphold, reverse or amend the notice of violation. Such action shall be considered a final decision of the Board and constitute an Order of Violation.

(4) NONCOMPLIANCE - REMEDY OF DEFECTS; ABATEMENT

(a) The owner or occupant of the premises shall have the time specified in the order of violation to remedy the violations.

(b) The Building Inspector, Fire Inspector or Police Officer shall, in his or her discretion, have the

ability to extend the time for corrections if the circumstances warrant an extension and the owner or occupant is making a good faith effort to correct the violations.

(c) If the owner or occupant, after order of violation, fails or refuses to timely remedy the violations, then the Town, at its sole option, may cause such work to be done. Prior to commencing such work, the Building Inspector, Fire Inspector or Police Officer shall do the following:

1. Provide notice to the owner or occupant that the Town will abate the violations along with an estimate of the approximate dates and times during which abatement will occur; and,

2. Have the Town Clerk certify the approximate cost for any such work done, including reasonable costs for administration and Inspection fees (collectively, "costs of abatement"), and provide notice of same to the owner or occupant.

(d) Following such notice, the owner and/or occupant shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violations. Failure of an owner or occupant 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 shall be added as administration to the costs of abatement and notice of the additional costs shall be provided to the owner or occupant.

(e) If the owner or occupant 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) PENALTY FOR VIOLATION

In addition to and separate from any of the procedures set forth above, whenever there is violation of this ordinance, the Building Inspector, Fire Inspector or Police Officer may issue the owner or occupant a municipal citation. Violations of this ordinance shall be punishable [as class D forfeitures, under s. TCP 25.04](#). Each day of violation or continuation of a violation shall constitute a separate and distinct violation of this ordinance.

(6) EFFECTIVE DATE

~~The original ordinance was adopted on 7 Aug 1989. The ordinance was amended on July 17, 2006.~~

~~11.02 OPEN BURNING~~

~~(1) 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) "Bonfire" means an open fire kindled to mark a public event, victory celebration, or similar occurrence where dry, combustible material such as wood, paper, and similar items are burned.~~

~~(c) "Open burning" means combustion in which the by-products thereof are emitted directly into the ambient air, without passing thru 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.~~

~~(2) PROHIBITED OPEN BURNING~~

~~(a) Open burning of any wet combustible rubbish, garbage, oily substances, asphalt, rubber products, or other materials prohibited by state statute or administrative rule.~~

~~(b) Burning of explosive or dangerous material without a permit issued by either the Wisconsin department of natural resources (DNR), or the department of industry, labor and human resources (DILHR).~~

~~(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.~~

~~(3) REGULATED OPEN BURNING~~

~~(a) Open burning of dry leaves, plant clippings, weeds, brush, limbs, and other dry combustible materials; including any non-enclosed or covered cooking fires.~~

~~(b) Bonfires set for any purpose.~~

~~(c) Open burning of trees, limbs, stumps, brush, or weeds; including that from clearing and maintenance of rights-of-way.~~

~~(d) Open burning of gaseous or liquid waste, or building debris (excluding asphaltic, lead based, and rubber materials); by such methods approved by the DNR.~~

~~(e) Open burning of dry combustible rubbish on lands zoned A-1 Agriculture District (Exclusive).~~

~~(f) Open burning, or fires set for practice and instruction of fire fighters, or testing of fire fighting equipment.~~

~~(4) OPEN BURNING PERMITS~~

~~(a) DEFINITIONS-~~

~~1. AG-1 Burn Permit, a yearly permit for zoned A-1 Agriculture District (Exclusive) landowners with a dedicated, inspected, and approved burn site.~~

~~2. Open Burning Permit, a yearly permit once issued requires residence to register open burn via telephone 2 days prior to burning.~~

~~3. Special Burn Permit, one time permit issued for the purposes of burning after sunset, bonfires, large brush fires, Agriculture District fires away from approved burn site, etc.~~

~~(b) Open burning permits shall be required for all regulated open burning, conducted within the limits of the town, as described in (3)(a-f).~~

~~(c) Open burning permits shall be issued by the town chair, fire chief, or their designee.~~

~~(d) Open burning permits shall not be required for any activity described in (3)(f), when these activities are conducted by the Cross Plains fire department.~~

~~(e) Open burning permits shall only be issued to a person 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 are attached as Appendix 11-A, B, C, with the same force and effect as if it were fully reprinted herein.~~

~~(5) STANDARD OPEN BURNING PERMIT CONDITIONS-~~

~~(a) A responsible adult 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.~~

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

~~(d) No open burning shall be conducted within 40 feet from any structure, hay stack, or fuel storage location; or upon any paved surface within a right-of-way, public or private.~~

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

~~(f) 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.~~

~~(6) PENALTY FOR VIOLATION~~

~~(a) In addition to, and separate from, the possible liability referred to in (6) (b,c), violations of this ordinance shall be punishable as class D forfeitures, under s. TCP 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, may be liable for any and all costs incurred by the town; in responding to and extinguishing any open burning, which is in violation of this ordinance.~~

~~(7) EFFECTIVE DATE~~

~~This section shall take effect upon passage and publication.~~

11.02 FENCING OF HAZARDOUS AREAS

(1) DEFINITIONS

(a) "Fence" means a fixed barrier which shall not be less than 4 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 1-7(a) 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 10 feet along the top of the slope; and the overall height of the slope is more than 8 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 s. 943.13(2)(a), Stats.

(b) All fencing shall be erected and maintained no less than 10 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 resources (DILHR); the department of natural resources (DNR); and the US 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, DNR, or MSHA regulation; violations of this ordinance shall be [punishable as class B forfeitures, under s. TCP 25.04.](#)

(4) EFFECTIVE DATE

~~(a) The original ordinance was adopted on 7 Jun 1993.~~

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

11.03 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, Stats., where a massage is made available for a consideration.

(c) "Massage technician" means any person, not otherwise regulated under ch. 448, 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 s. TCP 07.02(14), shall accompany each application for a massage establishment, massage technician, and operators 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 Cross Plains. 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 operators 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 operators license.

(b) The town board shall review all applications received by the 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 s. TCP 25.04.

(7) EFFECTIVE DATE

~~(a) The original ordinance was adopted 3 Mar 1975.~~

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

11.04 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 s. 66.0407(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 s. TCP 11.06(1)(a).

(c) "Weed commissioner" means the person designated by the town chair, under s. 66.0517, Stats.; having the duties and powers specified in (2)(c,d), and s. 66.0517, 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 s. 66.0517, Stats., in addition to those specified in (c,d).

(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 s. 66.0517, 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 can not be contacted as described in (c).

(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 s. TCP 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 Cross Plains authorized to administer or enforce this Chapter, including but not limited to Police 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 CFR 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, Stats. and ch. TCP O5; 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)(a-e), within the town limits.

(b) All reports of public nuisances within the town limits, shall be initially investigated by the police department; with citations issued as deemed appropriate. In the event there appears to be a violation that warrants additional investigation; the police department will promptly notify the weed commissioner, or highway superintendent, or appropriate building, electrical, or fire inspector for their inspection and follow-up report.

(c) All follow-up investigation reports shall be documented in writing; and where appropriate, video tape, or photographs, shall document the conditions found.

(d) 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.

(e) NOTICE AND ORDER OF VIOLATION. If the follow-up investigation reveals that a public nuisance exists, the police department authorized agent shall issue a notice of violation to the person responsible for the nuisance, ordering specific remedial action and a specific time for abatement. In the event the nuisance is not abated within the time period allowed, the person responsible for the nuisance shall be in violation of this ordinance and subject to the penalties specified in (3) and (4).

(3) NONCOMPLIANCE – REMEDY OF DEFECTS; ABATEMENT

(a) The person responsible for the violation shall have the time specified in the order of violation to remedy the violations.

(b) The authorized agent shall, in his or her discretion, have the ability to extend the time for corrections if the circumstances warrant an extension and the person responsible for the violation is making a good faith effort to correct the violations.

(c) If the person responsible for the violation, after order of violation, fails or refuses to timely remedy the violations, then the Town, at its sole option, may cause such work to be done. If the Town exercises this option, the authorized agent shall enter upon the responsible person's property and cause the nuisance to be removed or abated and the Town shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance. Prior to commencing such work, the authorized agent shall do the following:

1. Provide notice to the person responsible for the violation, via either personal service or certified mail with return receipt or commercial delivery with verified delivery (such as Federal Express), that the Town will abate the violations along with an estimate of the approximate dates and times during which the abatement will occur; and

2. Have Town Clerk certify the approximate cost for any such work done, including reasonable costs for administration and inspection fees (collectively, "costs of abatement"), and provide notice of same to the person responsible for the violation ("Abatement Order").

(d) Following such notice and Abatement Order, the person responsible for the violation shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violations. Any person affected by such Abatement Order shall, within thirty (30) days of service of the order, apply to the Circuit Court for an order restraining the Town and the authorized agent from entering on the premises and abating or removing the nuisance, or be forever barred. The Court shall determine the reasonableness of the Abatement Order.

(e) If the person responsible for the violation 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 and collected as a special charge in accordance with law. If the person responsible for the violation is not a property owner in the Town of Cross Plains, the Town may seek other restitution options.

(4) PENALTY FOR VIOLATION

In addition to, and separate from, any of the procedures set for above and any liability resulting from a failure to comply with any applicable state statute or administrative rule; violations of this ordinance shall be punishable as class C forfeitures, under s. TCP 25.04.

(5) EFFECTIVE DATE

~~(a) The original ordinance was adopted on 11 Mar 1994 and amended on December 15, 2008.~~

(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 of Cross Plains without being registered for that purpose as provided herein.

(2) DEFINITIONS. In this ordinance:

(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 Wis. Stat. s. 440.42. Any charitable organization engaging in the sale of merchandise and not registered under Wis. Stat. s. 440.42, 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 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 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 clerk may refer it immediately to the Police Department who may make and complete an investigation of the statements made in such registration.

(b) The 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 Chief of Police, or designee, shall report to the clerk any charges or convictions under this ordinance and the 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, Police Chief 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 TCP 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

(a) 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

(a) Any violation of this ordinance shall be subject to [a Class C forfeiture as specified in TCP Ord. 25.04\(1\)\(b\)](#). Each and every day such violation continues 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.

Text in red is added from Town of Cottage Grove Animal Ordinances

11.09 REGULATION OF DOGS AND CATS

(1) DEFINITIONS

(a) "At large" means to be off the premises of the owner, and not under the direct control of the owner or some other person. A dog or cat enclosed within its owner's vehicle, or within the vehicle of another person with the owner's consent, shall be considered to be on the owner's premises, and not "at large". Neither dogs or cats shall be considered "at large" when the animal is under the direct control of its owner or authorized handler; and the owner or handler has obtained prior permission from the landowner to allow the animal on the property.

(b) "Direct control" means that the animal is in view of the owner or authorized handler at all times the animal is off the premises of the owner; and the owner or handler has the ability to immediately physically restrain the animal.

(c) "Habitually" means 3 or more documented occasions within a period of 60 days.

(d) "Owner" means any person who owns, harbors, keeps, or controls a dog or cat. The occupant of any premises on which a dog or cat remains, or to which it customarily returns daily, for a period of 10 days, shall be presumed to be harboring, or keeping the dog or cat.

(e) "Veterinarian" has the meaning designated under s. 453.02(7), Stats.

(2) RESTRICTIONS ON KEEPING DOGS AND CATS

An owner will be in violation of this ordinance if their dog or cat, does any of the following within the town limits:

(a) Habitually pursues any vehicle upon any street or highway.

(b) Assaults, or attacks any person.

(c) Is at large.

(d) Habitually barks or howls to the reasonable annoyance of any person.

(e) Kills, wounds, or worries any domestic animal.

(f) Is suspected of biting a person, or being infected or exposed to rabies; has not been

quarantined as specified in ss. 95.21(4) and (5), Stats.

(g) Exhibits symptoms of rabies, as determined by a veterinarian, during a quarantine period; and has not been destroyed as specified in s. 95.21(5)(d), Stats.

(h) Defecates in any public park or recreation area, or within any public right-of-way within the Town limits, without the waste or manure being immediately collected and removed by the person in control of said animal. This section shall not apply to a person who is visually or physically handicapped.

(i) Being a dog more than 5 months of age, which is not licensed in accordance with the provisions of ss. 174.05 and 174.07, Stats.

(j) Defecates upon any private property, other than that owned or occupied by the animal's owner or caretaker, without the waste or manure being immediately collected and removed by the person in control of said animal. This section shall not apply to a person who is visually or physically handicapped.

(2a) ANIMAL WASTE DISPOSAL

A person will be in violation of this ordinance if, within the town limits, the person knowingly deposits, dumps, disposes or otherwise places animal waste or manure in any public park, recreation area, public right of way, or private property not owned or leased by the person, unless the person has permission from the property owner to do so. This section shall not apply to a person who is visually or physically handicapped.

(3) POLICE K-9 DOGS EXEMPTED

A police "K-9" dog shall not be considered in violation of the provisions of (2)(a-h), at any time it is on duty with its handler. This exemption applies to K-9 dogs assigned to any appropriately trained law enforcement officer in the state.

(4) LICENSING OF DOGS

(a) The provisions of ss. 174.05 - 174.09, Stats. are hereby adopted and made a part of this ordinance with the same force and effect as if they were fully reprinted herein.

(b) No person shall own, or keep any dog more than 5 months of age without obtaining a dog license from the town treasurer.

(c) The licensing year shall be from January 1 thru December 31.

(d) A license fee, as specified in s. TCP 07.02(12), shall be paid to the town; in addition to the

dog license fee imposed by Dane county.

(5) DUTY OF OWNER IN CASE OF DOG OR CAT BITE

(a) Every owner who knows, or reasonably could believe, that their dog or cat has bitten any person, shall immediately report the incident to the town police department; and shall keep the animal quarantined under the supervision of a veterinarian, for not less than 14 days after the incident occurred.

(b) The owner of any such dog or cat, shall surrender it for veterinary examination on the first and last day of isolation, and on one intervening day; and shall be responsible for any expenses incurred as a result of such examinations.

(c) No person shall remove any dog or cat from quarantine, until the veterinarian certifies that the animal has not exhibited any signs of rabies.

(6) IMPOUNDMENT OF DOGS AND CATS

(a) In addition to any penalty imposed against owners of animals which are in violation of this ordinance, any police officer of the town may impound any dog or cat in accordance with the provisions of s. 174.046, Stats.

(b) Owners or their authorized representatives may repossess dogs and cats impounded under this section, by:

Providing their name, address, and telephone number.

Paying the cost of keeping the dog or cat to the place of impoundment.

Providing evidence that a dog is vaccinated against rabies, or a receipt from a licensed veterinarian for prepayment of a rabies inoculation.

Providing evidence that a dog is licensed in accordance with (3).

(c) Dogs impounded for a minimum of 7 days shall be considered to be unclaimed, and may be disposed of in accordance with the provisions of s. 174.046(9), Stats.

(7) ENFORCEMENT Any person who believes that a dog, cat, or an owner, has violated this ordinance, shall file a complaint with the town police department. Upon request of the municipal court, the person complaining, shall sign a formal written complaint, and appear in court to testify in support of their complaint.

(8) PENALTY FOR VIOLATION Violations of this ordinance shall be punishable as class C forfeitures, under s. TCP 25.04.

(9) EFFECTIVE DATE

~~(a) The original dog ordinance was adopted 6 Jan 1992, with the licensing provisions adopted 2 Mar 1992. Animal Waste Disposal added 18 June 2007.~~

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

11.11 DANGEROUS ANIMALS REGULATED.

(1) STATEMENT OF PURPOSE; GRANT OF AUTHORITY AND JURISDICTION

(a) **PURPOSE OF ORDINANCE.** It is hereby declared that regulation of dangerous animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the Town of Cross Plains, and that existing laws are inadequate to deal with the threat to public health and safety posed by dangerous animals. It is further declared that the owning, keeping or harboring of dangerous animals is a public nuisance.

(b) **GRANT OF AUTHORITY AND JURISDICTION TO DANE COUNTY HUMANE OFFICERS AND PHMDC.** Pursuant to Wis. Stats. sec. 173.03(3), the Town hereby affirms that a Humane Officer appointed by Dane County is fully authorized to carry out his or her duties in the Town, and shall have all powers and duties set forth in TCP Ord. ch. 20, relevant Dane County Ordinances¹ and Wis. Stats. ch. 173. (See Wis. Stats. ch. 173, which is entitled "Animals; Humane Officers," for further information on Humane Officer's authority and responsibility.) The Town expressly acknowledges that, because the Humane Officers report directly to Dane County and PHMDC, PHMDC shall have the authority in the Town as is necessary for the Humane Officer to carry out his or her duties in the Town.

¹ In the event of a conflict between Town of Cross Plains Ordinances and Dane County Ordinances, Town of Cross Plains Ordinances shall be given priority. To the extent that an issue is not addressed in TCG Ord. sec. 20.20, Dane county Ordinances may be applied where such application is useful in determining a course of action

(c) **GRANT OF AUTHORITY TO CPPD, DCSO AND LAW ENFORCEMENT OFFICERS.** The Town acknowledges that, for various reasons outside of the Town's control, a Humane Officer will not always be available to respond to a call regarding regulation of dangerous animals within the Town. When a Humane Officer is not available within a reasonable time frame, or in the event of an emergency, the Town hereby affirms that a Law Enforcement Officer shall have the authority to apply and enforce TCG Ord. ch. 20. Where references within TCG Ord. sec. 20.20 are made to CGPD, such authority shall also apply to the DCSO or another law enforcement agency having jurisdiction to act within the Town. NOTE: To reach the CPPD by telephone: For Emergencies: 911 24 Hour Non-Emergency: (608) 255-2345 If you wish to speak to the On-Duty Officer, please call the non-emergency number which is answered by the Dane

Co 911 Center. Business Office: (608) 839-4652 Voice Mail messages can be left for any department member 24 hours a day by calling the business office number.

(d) WISCONSIN STATUTE INCORPORATED BY REFERENCE. To the extent not inconsistent with this section, the provisions contained in Wis. Stats. ch 173 are hereby incorporated by reference as if set forth in full herein.

(2) DEFINITIONS PLEASE REVIEW THE DEFINITIONS CAREFULLY. APPLYING THESE DEFINITIONS TO THE TERMS USED IN THE ORDINANCE IS ESSENTIAL TO CORRECT INTERPRETATION AND APPLICATION OF THE ORDINANCE. For the purposes of this section, the following definitions shall apply:

(a) "CPPD" shall mean the Cross Plains Police Department.

(b) "DCSO" shall mean the Dane County Sheriff's Office.

(c) "Domestic animal" or "animal" includes livestock, dogs, cats, birds and reptiles.

(d) "Humane Officer" shall mean a person appointed as a humane officer by Dane County pursuant to s. 173.03, Stats.

(e) "Impoundment" shall mean the confinement of an animal in a County-approved, supervised facility such as a veterinarian's kennel, commercially operated kennel or the Dane County Humane Society.

(f) "Law Enforcement Officer" shall mean a person sworn as a law enforcement officer for the CPPD, DCSO or another police department having jurisdiction and authority to act in the Town of Cross Plains.

(g) "Officer" shall mean either a Humane Officer or a Law Enforcement Officer.

(h) "Owner" shall mean the Owner, custodian or person having charge, care or custody of an animal. For purposes of this ordinance, "Owner" shall also include persons harboring an animal. The occupant of any premises on which an animal remains, or to which it customarily returns daily, for a period of seven (7) days, shall be presumed to be harboring the animal.

(i) "Permit" shall include the otherwise unregulated right to keep an animal currently not covered by a requirement for a Town license or permit.

(j) "PHMDC" shall mean the Public Health Madison & Dane County, or its successor.

(k) "TCP Ord" shall mean the Town of Cross Plains Ordinances.

(1) "Town" shall mean the Town of Cross Plains, located in Dane County, Wisconsin.

(3) IMPOUNDMENT—BITING OR ATTACKING ANIMAL

(a) A Humane Officer or Law Enforcement Officer shall have the power to summarily and immediately impound an animal whenever the Officer has reasonable grounds pursuant to the "DETERMINATION" section of this ordinance to believe that the animal is a dangerous animal. The animal may remain impounded during the entire determination process. If the animal is determined to be dangerous, it shall remain impounded until the Owner has complied with all restrictions outlined by the CPPD or PHMDC and found in the "DANGEROUS ANIMALS RESTRICTIONS" section of this ordinance or until such time as the CPPD or PHMDC determines that the animal may be safely returned to the Owner. Any Law Enforcement Officer or Humane Officer may enter and inspect private property to enforce the provisions of this section. The Owner of the animal shall be liable to the Town and the County for the costs and expenses of impounding and keeping said animal, which costs expressly include associated legal costs incurred by the Town and other third party costs reasonably incurred by the Town, unless the CPPD or PHMDC determination is ultimately overturned by administrative review or a reviewing court. For determinations made by the CPPD or PHMDC, administrative review shall be by the Town Board.

(b) An animal impounded pursuant to this section, may be returned to the Owner upon payment of all outstanding Town and County fees and charges including costs and expenses of impounding the animal when the investigation and determination is completed. If the animal is determined to be dangerous, the animal shall remain impounded until the Owner provides proof to the CPPD or PHMDC that the Owner has complied with all restrictions outlined by the CPPD or PHMDC and found in the "DANGEROUS ANIMALS RESTRICTIONS" section of this ordinance or until such time as the CPPD or PHMDC determines that the animal may be safely returned to the Owner.

(c) In lieu of impoundment, if there was no tearing of flesh or multiple wounds by the animal and the animal is currently immunized against rabies, or if the animal species is at low risk for transmitting this or other diseases, the CPPD or PHMDC may permit the animal to be confined at the Owner's residence provided that the Owner complies with conditions set forth by the CPPD or PHMDC.

(d) The Owner or custodian of an animal confined under Subdivision (c) above shall immediately notify the CPPD or PHMDC if said animal is loose, unconfined, has attacked or bitten or injured another animal or has attacked, bitten or injured a human being or has died. The animal shall not be sold or given away during the impoundment period.

(4) DETERMINATION

A Humane Officer or Law Enforcement Officer shall investigate situations in which there are reasonable grounds to believe an animal is dangerous. Reasonable grounds to believe an animal is dangerous are that the animal.

- (a) Has attacked, bitten or injured another domesticated animal or human being engaged in a lawful activity; or
- (b) Has without provocation and off the property of its Owner, chased, confronted or approached a person in a menacing fashion such as would put an average person in fear of attack; or
- (c) Has been trained for fighting or attack and is being handled, kept or maintained in a manner that causes or should cause an Owner to know that it potentially poses a threat to public health and safety; or
- (d) Has acted in any manner that causes or should cause an Owner to know that the animal is a threat to public health and safety.

(5) DANGEROUS OR AT-RISK ANIMAL, DECLARED

The CPPD or PHMDC, after considering appropriate evidence, may declare any animal to be a dangerous animal. The CPPD or PHMDC shall make a reasonable attempt to personally notify the Owner of the pendency of the CPPD or PHMDC's investigation and shall notify the Owner in writing of its determination. Mailing a copy of the determination to the Owner's last known address and posting in accordance with approved CPPD or PHMDC policy shall satisfy this notice requirement. The notice requirement may also be met by providing the written determination in person or via a commercial delivery service such as Federal Express. The CPPD or PHMDC may also declare any animal to be an at-risk animal. At-risk animals shall be reevaluated periodically and may have the at-risk designation removed in appropriate circumstances. For example, the at-risk designation could be removed following satisfactory completion of obedience training and certification by the American Kennel Club (AKC) as a "canine good citizen."

(6) DANGEROUS ANIMAL, DISPOSITION

- (a) It shall be unlawful for any person to own, possess, harbor or keep any animal declared by the CPPD or PHMDC to be dangerous, except as allowed in (b) below.
- (b) Any animal declared by the CPPD or PHMDC to be a dangerous animal shall be humanely destroyed, removed from the Town or placed under restrictions as set forth in this section and in CPPD or PHMDC policies. Either the Chief of the CPPD or the Director of PHMDC shall issue an order authorizing the destruction, removal or restriction of the animal within two (2) days

after the time for appeal as provided in the "BOARD REVIEW OF DETERMINATION" section of this ordinance below has passed without notice of appeal being filed.

(c) Any animal declared by the CPPD or PHMDC to be dangerous, if not already impounded by the CPPD or PHMDC, shall be immediately surrendered to the CPPD or PHMDC upon the order of the Chief of the CPPD or Director of Public Health, and an Officer is authorized to take up and impound any such animal.

(7) DANGEROUS ANIMAL RESTRICTIONS

Any Owner of an animal that has been declared dangerous pursuant to this section and placed under restrictions must comply with the restrictions set forth below as well as any additional restrictions imposed by the Officer, CPPD and/or PHMDC. The Owner must provide documentation to the CPPD or PHMDC of compliance with these restrictions. Said documentation must be provided within thirty (30) days of the animal being declared dangerous.

(a) The Owner of the animal must provide written proof from a licensed veterinarian that the animal has been spayed or neutered.

(b) The Owner must provide written proof from a licensed veterinarian that a microchip has been placed in the animal so that the animal can be easily identified. The microchip must contain the following information:

1. The name of the animal,

2. The name of the Owner, and

3. The following language "Dangerous Animal, contact **Cross Plains Police Department at 608-255-2345**".

(c) The Owner must provide written proof from a licensed veterinarian that the animal is current with rabies vaccinations.

(d) The Owner must provide written proof that the Owner has notified Owner's insurance provider of the dangerous animal, and written proof of coverage confirming that the Owner continues to have sufficient property damage and comprehensive liability coverage for claims related to the dangerous animal. While the Town Clerk will maintain copies of the documents that Owner submits, the Town is not undertaking the responsibility to verify the sufficiency of said insurance coverage for the benefit of third parties and shall not be held liable therefor.

(e) The animal must be in compliance will all license requirements.

(f) The Owner must post signs no smaller than eight (8) inches by eleven (11) inches, made of metal or plastic, bearing the wording "Warning Dangerous Animal" or "Beware of Dog", no smaller than three (3) inches high. These signs shall be posted at each entrance to the building in which the dangerous animal is kept and at each entrance through a fence and at such location as to be viewable from the public right-of-way to ensure adequate warning and visibility to anyone approaching said building and fence.

(g) When outside but still on the property of the Owner or caretaker, the dangerous animal must be supervised by a competent adult and physically restrained at all times to prevent the animal from leaving the property. If the CPPD or PHMDC determines that the animal may be kept in a secure kennel or pen, hereinafter referred to as "structure", and not under the direct supervision of an adult, the CPPD or PHMDC may require that the structure be constructed under some or all of the following guidelines:

1. The structure shall be constructed of strong metal fencing to prevent the animal from exiting on its own volition.
2. The structure shall be secure on all sides and have a secure top attached.
3. The structure shall have a secure bottom or floor attached to the sides of the structure or the sides of the structure shall be embedded in the ground no less than two (2) feet.
4. The structure shall be kept locked at all times with a key or combination lock.
5. The structure shall provide adequate light, ventilation and shelter from the environment for the animal.
6. The structure shall be maintained in a clean and sanitary condition.
7. The structure must be in compliance with all other building and zoning ordinances.

(h) The dangerous animal shall be muzzled and leashed at all times when outside and not within an "approved "structure," whether on or off the Owner's property. The muzzle must be made in a manner that will not cause injury to the animal but that will prevent it from biting any person or animal. The leash shall be attached to a secure collar that is of sufficient strength to restrain the animal. The leash shall be no longer than four (4) feet in length and must be secured by and under the direct control and supervision of a competent adult.

(i) The Owner shall allow the CPPD or PHMDC to take four (4) photographs depicting the animal and Owner as outlined below:

1. One (1) photograph showing a close view of the animal's entire face, so that the animal is

recognizable,

2. One (1) photograph showing the animal's entire left side of its body, including its legs and tail.

3. One (1) photograph showing the animal's entire right side of its body, including its legs and tail, and

4. One (1) photograph showing the Owner, so that the Owner is easily identifiable. Prior to a dangerous animal being sold or given away, the current Owner must provide the name, address and telephone number of the proposed new Owner to the CPPD or PHMDC. Prior to taking physical custody of the dangerous animal, the new Owner must comply with all requirements of this ordinance and any other restriction the CPPD or PHMDC determines to be appropriate to ensure the public's safety.

To ensure compliance with this ordinance, the Owner or caretaker of a dangerous animal shall allow the CPPD or PHMDC on an annual basis and at any other reasonable time determined by the CPPD or PHMDC the opportunity to inspect the property where the dangerous animal is kept.

(8) DANGEROUS ANIMAL LICENSE REQUIRED

NOTE: TCP Ord. sec. 20.20 is not intended to and does not in any way modify the general licensing requirements for dogs set forth in Wis. Stats. ch. 174, which are incorporated by reference in the Town's ordinances, and remain in full force and effect. Licensing for dangerous animals is in addition to any other licenses or permits that are required by law.]

Any animal declared dangerous under this section, shall be required to have a dangerous animal license as set forth herein. Application for said license must be made within ten (10) days of said declaration.

All animals that have been declared dangerous pursuant to TCP Ord. [sec. 20.20](#), may not be kept within the Town of Cross Plains unless the Owner has applied for a dangerous animal license within ten (10) days of said declaration. The license fee shall be no less than one hundred fifty dollars (\$150) and shall be an annual license issued from January 1st until December 31st of each year, or portion thereof, and shall be set by resolution of the Town Board. The license fee may be hereafter changed by resolution of the Town Board. The license shall be issued after the Owner complies with this ordinance and all other restrictions imposed by an Officer, CPPD or PHMDC. In addition to the forfeitures specified elsewhere in this ordinance, any violation of this section may result in the CPPD or PHMDC immediately impounding the dangerous animal and conducting a new dangerous animal investigation.

(9) SUBSEQUENT DETERMINATION AND PENALTY

(a) The CPPD or PHMDC may make a new determination if an Owner fails to comply with the terms or restrictions imposed in the "DANGEROUS ANIMAL, DISPOSITION" and/or "DANGEROUS ANIMAL RESTRICTIONS" sections of this ordinance.

(b) The failure of any person to comply with any term, condition or restriction imposed by the CPPD or PHMDC is a violation of this ordinance.

(10) BOARD REVIEW OF DETERMINATION

The Owner or any person aggrieved by a CPPD or PHMDC determination declaring any animal to be a dangerous animal may appeal such determination to the Cross Plains Town Board ("Board") by filing a notice of appeal stating the grounds therefor with the following persons: (1) Chief of the CPPD (for determinations issued by CPPD or any Law Enforcement Officer) or Director of PHMDC (for determinations issued by Humane Officer); and, Town Clerk of the Town of Cross Plains (for all determinations). Such notices of appeal shall be filed within seven (7) days of the date of mailing of the CPPD or PHMDC Determination under subsection (5) above. Board review pursuant to this procedure is required prior to seeking court review. Failure to so obtain Board review shall be deemed a full and complete waiver of the right to any additional review of the determination.

If an appeal is timely and properly filed, the Board shall schedule a hearing on whether to affirm, conditionally affirm or reject the determination within thirty-two (32) days, but not sooner than five (5) days, and shall make reasonable efforts to notify the Owner, bite or attack victims and their representatives, if any, witnesses and other interested parties of such hearing and the opportunity to present evidence and testimony to the Board. The Board shall, within a reasonable period of time after the hearing, issue its decision in writing and serve a copy of the same by first class mail upon the Owner and all parties requesting the same. The notice requirement may also be met by providing the written determination in person or via a commercial delivery service such as Federal Express.

(11) APPEALS TO CIRCUIT COURT

Any person aggrieved by a determination of the Cross Plains Town Board under subsection (10) above may appeal such action on a dangerous animal determination to Circuit Court by writ of certiorari within ten (10) days of notification of such final action by mailing of the decision under subsection (10).

(12) PROSECUTION

An investigation or determination under this section shall not prohibit the Town from prosecuting the same Owner for other animal control violations relating to the same animal or other animal.

(13) VIOLATION

(a) Any violation of this section shall be subject to a Class D forfeiture as specified in TCP Ord. 25.04(1)(b). Each and every day such violation continues shall be considered a separate offense.

(b) The failure or neglect of any person to comply with any lawful order of an Officer, the CPPD or the PHMDC issued pursuant to this ordinance shall constitute a violation of this ordinance.

(14) SEVERABILITY

In the event that any section of this ordinance shall be declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said section(s) were not originally a part thereof.

(15) EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.

11.12 NUMBER OF ANIMALS REGULATED.

(1) STATEMENT OF PURPOSE; GRANT OF AUTHORITY AND JURISDICTION

(a) **PURPOSE OF ORDINANCE.** It is hereby declared that regulation of the number of animals is a matter of public interest pertaining to the health, safety and welfare of residents of and visitors to the Town of Cross Plains, and that existing laws are inadequate to deal with the harm to public health and safety posed by having too many animals in a residential area. It is further declared that the owning, keeping or harboring of too many animals in a residential area detracts from the healthful, comfortable and safe lifestyle for which such areas are created and, particularly with respect to pack animals such as dogs, is a public nuisance.

(b) **GRANT OF AUTHORITY AND JURISDICTION TO DANE COUNTY HUMANE OFFICERS AND PHMDC.** Pursuant to Wis. Stats. sec. 173.03(3), the Town hereby affirms that a Humane Officer appointed by Dane County is fully authorized to carry out his or her duties in the Town, and shall have all powers and duties set forth in TCP Ord. ch. 20, relevant Dane County Ordinances¹ and Wis. Stats. ch. 173. (See Wis. Stats. ch. 173, which is entitled "Animals; Humane Officers," for further information on Humane Officer's authority and responsibility.) The Town expressly acknowledges that, because the Humane Officers report directly to Dane County and PHMDC, PHMDC shall have the authority in the Town as is necessary for the Humane Officer to carry out his or her duties in the Town.

(c) GRANT OF AUTHORITY TO CPPD, DCSO AND LAW ENFORCEMENT OFFICERS.

The Town acknowledges that, for various reasons outside of the Town's control, a Humane Officer will not always be available to respond to a call regarding regulation of the number of animals within the Town. When a Humane Officer is not available within a reasonable time frame, or in the event of an emergency, the Town hereby affirms that a Law Enforcement Officer shall have the authority to apply and enforce TCP Ord. ch. 20. Where references within TCP Ord. sec. 20.30 are made to CPPD, such authority shall also apply to the DCSO or another law enforcement agency having jurisdiction to act within the Town.

NOTE: To reach the CPPD by telephone For Emergencies: 911 24 Hour Non-Emergency: (608)

255-2345 If you wish to speak to the On-Duty Officer, please call the non-emergency number which is answered by the Dane Co 911 Center. Business Office: (608) 839-4652 Voice Mail messages can be left for any department member 24 hours a day by calling the business office number.

(d) WISCONSIN STATUTE INCORPORATED BY REFERENCE. To the extent not inconsistent with this section, the provisions contained in Wis. Stats. ch 173 are hereby incorporated by reference as if set forth in full herein.

1 1 In the event of a conflict between Town of Cross Plains Ordinances and Dane County Ordinances, Town of Cross Plains Ordinances shall be given priority. To the extent that an issue is not addressed in TCP Ord. sec. 20.30, Dane county Ordinances may be applied where such application is useful in determining a course of action.

(2) DEFINITIONS

PLEASE REVIEW THE DEFINITIONS CAREFULLY. APPLYING THESE DEFINITIONS TO THE TERMS USED IN THE ORDINANCE IS ESSENTIAL TO CORRECT INTERPRETATION AND APPLICATION OF THE ORDINANCE.

For the purposes of this section, the following definitions shall apply:

(a) "CPPD" shall mean the Cross Plains Police Department.

(b) "DCSO" shall mean the Dane County Sheriff's Office.

(c) "Domestic animal" or "animal" includes livestock, dogs, cats, birds and reptiles.

(d) "Humane Officer" shall mean a person appointed as a humane officer by Dane County pursuant to s. 173.03, Stats.

(e) "Impoundment" shall mean the confinement of an animal in a County-approved, supervised facility such as a veterinarian's kennel, commercially operated kennel or the Dane County Humane Society.

(f) "Law Enforcement Officer" shall mean a person sworn as a law enforcement officer for the CPPD, DCSO or another police department having jurisdiction and authority to act in the Town of Cross Plains.

(g) "Officer" shall mean either a Humane Officer or a Law Enforcement Officer.

(h) "Owner" shall mean the Owner, custodian or person having charge, care or custody of an animal. For purposes of this ordinance, "Owner" shall also include persons harboring an animal.

The occupant of any premises on which an animal remains, or to which it customarily returns daily, for a period of seven (7) days, shall be presumed to be harboring the animal.

(i) "PHMDC" shall mean the Public Health Madison & Dane County, or its successor.

(j) "Residential area" shall, for the purposes of this section, include only those parcels of land zoned principally for residential use and designated under Dane County Zoning Code as any R-Residence District (R-1, R-1A, R-2, R-3A, or R-4) and/or the RH-1 Rural Homes District.

(k) "TCP Ord" shall mean the Town of Cross Plains Ordinances.

(l) "Town" shall mean the Town of Cross Plains, located in Dane County, Wisconsin.

(3) LIMITING NUMBER OF DOGS IN RESIDENTIAL AREA

No person or household shall own, harbor or keep more than five (5) dogs in any residential area, with the exception that a litter of pups, or a portion of a litter, may be kept for a period of time not exceeding 18 weeks from birth.

(4) EXCEPTIONS; REVOCATION OF EXCEPTIONS

Notwithstanding the limitation on the number of dogs set forth in this ordinance, those persons living in a residential area who have more than five (5) licensed dogs on the date of adoption of this ordinance may be eligible for an exception to this limitation. This exception may be granted in the reasonable discretion of the Town Clerk; provided that the owner and household comply with all of the following requirements:

(a) Written request must be submitted to Town Clerk requesting an exception to the limitation, and including the following information: (i) identify all existing dogs in the household by breed, size and age; (ii) confirm who owns each of the dogs; (iii) describe training each dog has received; (iv) describe principal reason for owning each dog (e.g., hunting, breeding, protection, companion dog); (v) describe dog's living conditions (e.g., kennel, in-home, fenced yard); (vi) describe each dog's health and veterinary care provided; (vii) provide summary of any complaints received or made regarding each dog; and (viii) request an exception for the life of current dogs or an exception for the life of current and replacement dogs.

(b) Written request must be complete and received by the Town Clerk no later than sixty (60) days following adoption of this ordinance.

(c) The household address where the dogs will be located shall be provided to the Town Clerk and shall be the address used by the Town for all notices related to this ordinance. Notice shall be given when sent to the household address by first class U.S. mail or commercial delivery service, or when personally delivered.

(d) None of the dogs in the household may be classified as a "dangerous animal" pursuant to Town ordinances.

(e) The owner and household must grant an Officer the right to complete on-site inspections to verify the number of dogs, the accuracy of the information provided in the written request, and the adequacy of the dog's living conditions. This authority must be provided in writing upon request.

The Town Clerk's denial of an exception may be appealed to the Town Board, provided that written notice of appeal is given to the Town Clerk in writing within thirty (30) days of the Town Clerk's denial of an exception. Failure to timely appeal shall bar all other remedies that may have been available to the owner and/or household.

Following receipt of a complaint, the Town Board may review any exceptions granted under this ordinance and, where appropriate, revoke the exception. The Town Board may request assistance from a Humane Officer or Law Enforcement Officer to conduct an investigation of the complaint or concerns raised by the Town Board. The Town Board's review may include, but shall not necessarily be limited to, the accuracy of the information provided in the written request under subsection (a) above and/or an on-site inspection under subsection (e) above. The Town Board may revoke an exception where the Town Board finds that the required information provided is inaccurate, there is a "dangerous animal" in the household, the dog(s)' living conditions are inadequate, the owner or household has violated this or another Town ordinance regulating animals, and/or based on other findings based on the totality of the circumstances presented. The Town Board's determination on revocation of an exception shall be final.

(5) DETERMINATION

A Humane Officer or Law Enforcement Officer shall investigate situations in which there are reasonable grounds to believe that an Owner is harboring or keeping dogs in excess of the limits set forth in this ordinance, and shall make a determination as to the number of dogs.

(6) VIOLATION

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

(b) The failure or neglect of any person to comply with any lawful order or determination of the Town Clerk, an Officer, the CPPD or the PHMDC issued pursuant to this ordinance shall constitute a violation of this ordinance.

(7) SEVERABILITY

In the event that any section of this ordinance shall be declared or adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such adjudication shall in no manner affect the other sections of this ordinance, which shall be in full force and effect as if the said

section(s) were not originally a part thereof.

(8) EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication.