

**CHAPTER 15: NUISANCE ORDINANCE**



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## **CHAPTER 15: NUISANCE ORDINANCE**

### **15.0100 PUBLIC NUISANCES PROHIBITED**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the boundaries of the Town of Franklin, Kewaunee County, Wisconsin.

#### **15.0101 Public Nuisances Defined**

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; or
- B. In any way render the public insecure in life or in the use of property; or
- C. Greatly offend the public morals or decency; or
- D. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

#### **15.0102 Public Nuisances Affecting Health Prohibited**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of 15.0200.

- A. Adulterated Food: All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Paunch Manure: The undigested food in a cow's stomach at the time of slaughter, provided by slaughterhouses to farmers for use as fertilizer.
- D. Dilapidated or Damaged Buildings and Structures: Any structure that has suffered significant damage or deterioration either from age, lack of care, or abandonment or natural or manmade calamity to the degree that the exterior of the building walls, roof, doors and windows are burnt out, falling down, or are significantly patched or boarded or are structurally unsound and thereby pose a health and safety risk to the public.
- E. Breeding Places for Vermin, Etc.: Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing materials, scrap metal or any materials in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
- F. Water Pollution: The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.

- G. Street Pollution: Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.

**15.0103 Public Nuisances Affecting Peace and Safety**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of 15.0200.

- A. Animals: All non-native reptiles and animals that are housed in the town.
- B. Obstruction of Intersections: All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public roads, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian cross-walk.
- C. Low Hanging Tree Limbs: All limbs of trees which project over a public walkway less than eight feet above the surface thereof or less than fifteen (15) feet above the surface of a public road.
- D. Noisy Animals or Fowl: The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing, or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons with in the Town.
- E. Low Hanging Wires and Cables: All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
- F. Noises or Vibrations: All unnecessary, loud and discordant, noises or vibrations of any kind.
- G. Obstructions of Streets; Excavation: All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by ordinances of the of which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished.
- H. Open and Unguarded Pits, Well, Etc.: All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk. Pits exclude legally existing sand and gravel pits..
- I. Abandoned Refrigerators, Freezers, Etc.: All abandoned refrigerators or freezers from which the doors and other covers have not been removed or which cannot be opened by pushing from the inside by a small child.
- J. Structure or Material Which Constitutes a Fire Hazard: Any structure, material, or condition which constitutes a fire hazard or will impair the extinguishing of any fire.

- K. Dangerous Signs, Billboards, Etc.: All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- L. Unauthorized Traffic Signs: All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be, or may be mistaken as, official traffic control devices, railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
- M. Abandoned Autos, Trailers, Etc.: Automobiles, trailers, semi-trailers, motor homes, or mobile homes which are abandoned, as defined in Section 15.0104 of this code.
- N. Storage of Junk, Etc., Regulated: No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood.
- O. Any Nuisance: Any nuisance so defined by the Wisconsin Statutes.

**15.0104 Abandoned Vehicles and Storage of Junk**

- A. No person shall leave an unsheltered accumulation or storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, any other vehicles, machinery, implements, equipment, any parts thereof, and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is declared to be a nuisance and dangerous to the public health, safety, and well-being.
- B. The owner, tenant, lessee and occupants of any lot upon which such accumulation or storage is made and the owner and lessee of the items involved in such storage, all referred to collectively as "owners", shall jointly and severally abate the nuisance by promptly moving such items into completely enclosed buildings within the Town, or by moving the items to a location outside the Town.
- C. Whenever the owners fail to abate the nuisance, the Town shall move such items to a location of its selection, and the expense therefore shall be billed to the owners, jointly and severally, which bill shall be recoverable through the tax roll. When such items have been removed and placed in storage by the Town, they shall be sold by the Town after the lapse of such time as provided. If the proceeds of such sale are insufficient to pay the costs of abatement, the owners shall be jointly and severally liable to the Town for the balance of the costs to be recoverable in a suit of law. If the proceeds are in excess of costs, the balance shall be paid to the owners or deposited with the Town for their use.

### **15.0105 Public Nuisances Offending the Morals and Decency**

The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency within the definition of Section 15.0102.

- A. Gambling Devices: All gambling devices and slot machines.
- B. Unlicensed Sale of Liquor and Beer: All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the State of Wisconsin, Marinette County and any ordinances of the Town.
- C. Continuous Violations of Town Ordinances: Any place or premises within the Town where Town ordinances or State Law relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly, and intentionally violated.

### **15.0200 ABATEMENT OF PUBLIC NUISANCES**

- A. Enforcement: The Building Inspector, or other Town Officer as designated by statute or appointment by the Town Board, shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this subsection to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does, in fact, exist.
- B. Summary Abatement: If the inspecting officer determines that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Board may direct that a notice be served on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.
- C. Abatement After Notice: If the inspecting officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance(s) to be removed.



- D. Other Methods Not Excluded: Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with State Law.
- E. Court Order: No officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied, and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

**15.0202 Cost of Abatement**

In addition to any other penalties imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town, including attorney fees, shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**15.0203 Penalty**

Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as follows in 15.0110, Penalty Provisions.

**15.0204 Penalty Provisions**

- A. General Penalty: Any person who shall violate any of the provisions of this Code shall, upon conviction of such violation, be subject to a' penalty, which shall be as follows:
  - 1. **First Offense - Penalty.** Any person who shall violate any provision of this Code shall, upon conviction thereof, forfeit not less than fifty (\$50.00) nor more than five hundred dollars (\$500.00), together with the costs of prosecution, including Town's attorney fees, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.
  - 2. **Second Offense - Penalty.** Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one (1) year shall upon conviction thereof, forfeit not less that one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense, together with the costs of prosecution, including Town's attorney fees, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding six (6) months.

- B. Continued Violations: Each violation and each day a violation occurs shall constitute a separate offense. Nothing in this Code preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.
- C. Execution Against Defendant's Property: Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of any court for violation of any ordinance of the Town, the Court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for such forfeiture and costs.

**15.0205 Repealer**

Any previous ordinance or resolution of the Town Board contrary or in conflict with the regulations contained in this Ordinance is hereby amended or rescinded as may be necessary to fully and completely effectuate the regulations contained herein.

**15.0206 Effective Date**

This ordinance shall take effect the day after passage and publication as provided by Law.