

**TOWN OF NEKIMI
WINNEBAGO COUNTY, WISCONSIN**

ORDINANCE PROHIBITING PUBLIC NUISANCES

WHEREAS, the Town Board of the Town of Nekimi deems it in the public interest and welfare to establish regulations prohibiting public nuisances as defined herein; and

WHEREAS, the Town finds it necessary to exercise its police powers as authorized by sec. 60.22 of the Wisconsin Statutes;

NOW, THEREFORE, the Town Board of the Town of Nekimi, Winnebago County, Wisconsin, does ordain as follows:

SECTION 1. APPLICABILITY

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Nekimi.

SECTION 2. DEFINITIONS

2.1 **Public Nuisance-General.** 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; (b) In any way render the public insecure in life or in the use of property; (c) Greatly offend the public morals or decency; (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 or the use of public property; (e) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

2.2 **Public Nuisances Affecting Health.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of 2.1 of this section:

- (a) All decayed, harmfully adulterated or unwholesome food/food byproducts or drink sold or offered for sale to the public.

(b) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(c) All domestic animals running at large, including, without limitation, dogs, cats, horses, llamas, and all other types of domestic pets.

(d) The escape of soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.

(e) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(f) Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or substances offensive to the physical senses to an ordinary person possessed of ordinary tastes and susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of persons within the Town.

(g) All abandoned wells not securely covered or secured from public use.

(h) Disassembled, dismantled, partially dismantled, inoperable, junked, wrecked, or unlicensed motor vehicles, truck bodies, tractors, trailers, boats, or campers in such state of physical or mechanical ruin as to be incapable of propulsion or of being operated upon the public streets, highways, or waters.

(i) Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, lumber, trash, debris, or yard waste.

2.3 Public Nuisances-Intoxicating Liquor. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license or contrary to an existing permit or license, are deemed a public nuisance.

2.4 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 provisions of 2.1 of this section:

- (a) All loud, discordant and unnecessary noises or vibrations of any kind. This definition shall not apply to noises made by agricultural vehicles, equipment, or machinery, regardless of the time of day or night.
- (b) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall annoy or disturb neighbors or other residents of the Town. This definition shall not apply to noises made by farm animals.
- (c) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- (d) All open and unguarded pits, wells, or excavations, and all unused, abandoned, or uninhabitable buildings and basements that are freely accessible from any public street, alley or sidewalk.
- (e) Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a hazard (except when such items are properly housed and out of public view).
- (f) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (g) All items enumerated in section 2.2, above.

2.5 **Agriculturally-Related Activities.** The Town believes that, to the extent possible consistent with good public policy, this ordinance should not hamper agricultural production or the use of modern agricultural technology. The Town therefore deems it in the best interest of the Town to establish limits on the remedies available in conflicts between agricultural and other uses of land. Notwithstanding anything to the contrary in this ordinance, an agricultural use or an agricultural practice may not be found to be a nuisance under this ordinance if the agricultural use or agricultural practice complies with the requirements of sec. 823.08 of the Wisconsin Statutes, as amended (Right to Farm Act). The provisions of sec. 823.08 of the Wisconsin Statutes, as amended, are incorporated by reference as if fully set forth in this ordinance.

SECTION 3. ABATEMENT OF PUBLIC NUISANCES

3.1 **Inspection of Premises.** Whenever a complaint is made to a member of the Town Board that a public nuisance exists within the Town, the Town Board shall inspect or cause to be inspected the subject of the complaint.

3.2 **Notice to Owner.** If the Town Board determines that a public nuisance exists within the Town, it shall provide notice to the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises where such nuisance exists. The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove such nuisance within ten (10) days. The notice shall also state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

3.3 **Abatement by Town.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of such public nuisance.

3.4 **Abatement by Court Action.** If the Town shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, the Town may cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Winnebago County.

3.5 **Other Methods Not Excluded.** Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

SECTION 4. COST OF ABATEMENT

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town 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.

SECTION 5. PENALTIES

Any person who violates any provision of this ordinance or any order, rule or regulation made hereunder shall, upon conviction, be fined not less than \$50.00, nor more than \$500.00 for each offense, together with the costs of prosecution, including reasonable attorneys' fees. Each day that a violation continues shall be considered a separate offense. Furthermore, the Town shall be permitted to withhold the issuance of licenses, authorities, grants or permits until the nuisance has been abated and all penalties and costs satisfied.

SECTION 6. INTERPRETATION AND SEVERABILITY

6.1 **Interpretation.** The provisions of this ordinance are not intended to supersede or modify provisions of existing Zoning Ordinances or other rules, regulations and ordinances adopted by the Town. Where the provisions of this ordinance impose greater restrictions than any statute, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

6.2 Severability. It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be invalid.

Ronald Miller
Ronald Miller, Town Chairman

Attest:

Jerome Braasch
Jerome Braasch, Town Clerk

Adopted this 8th day of APRIL, 1998.

Published this 15th day of APRIL, 1998.