

ORDINANCE NO. 45

PUBLIC NUISANCE ORDINANCE

The Town Board of the Town of Geneva, Walworth County, Wisconsin, does ordain Town of Geneva Ordinance No. 45 as follows:

Section 1. Public Nuisances Prohibited.

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

Section 2. Public Nuisances Defined.

A public nuisance is a thing, act, occupation, condition, or use of property which continues for such length of time as to cause any of the following:

- 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.

Section 3. Public Nuisances Affecting Health.

The following acts, omissions, places, conditions, and things are specifically declared to be public health nuisances:

- A. Adulterated Food. All decayed, adulterated, or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied Carcasses. Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in sanitary manner within 24 hours after death.
- C. Breeding Places for Insects or Vermin. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any material in which flies, mosquitoes, disease-carrying insects, rats, or other vermin can breed.
- D. Stagnant Water. All stagnant water in which mosquitoes, flies, or other insects can multiply.

- E. Privy Vaults and Garbage Cans. Privy vaults and garbage cans which are not fly-tight.
- F. Noxious Weeds. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed one foot. The Town may cause all weeds and grass to be cut and removed and brush to be removed, and the cost thereof charged to the property under Wisconsin Statutes Section 66.60(16).
 - (1) Except that a property owner may submit a petition to the Town Board requesting an exception to subsection F. to allow for permitted vegetation to exceed one foot. The petition must be in writing and specifically identify the location, types of vegetation, and the reason for the request. The Town Board may approve, deny, or request additional information regarding the petition. Any granted exception shall expire after two (2) years.
- G. Water Pollution. 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.
- H. Noxious Odors. Any use of property, substances, or things within the Town emitting or causing any foul, offensive, noisome, noxious, or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the Town.
- I. Street Pollution. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the Town.
- J. Air Pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the Town or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the Town.

Section 4. Public Nuisances Offending Morals and Decency.

The following acts, omissions, places, conditions, and things are specifically declared to be public nuisances offending public morals and decency:

- A. Disorderly Houses. All disorderly houses, bawdy houses, houses of ill-fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse, or gambling.
- B. Gambling Devices. All gambling devices and slot machines.
- C. 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 Ordinances of the Town.

- D. Continuous Violation of Town Ordinances. Any place or premises within the Town where Town Ordinances or State Laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated.
- E. Illegal Drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State Laws.

Section 5. Public Nuisances Affecting Peace and Safety.

The following acts, omissions, places, conditions, and things are declared to be public nuisances affecting peace and safety; but such enumeration shall not be construed to exclude other nuisances affecting public peace of safety coming within the definition of Section 10.02 above.

- A. 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.
- B. Illegal Buildings. All buildings erected, repaired, or altered in violation of Town Ordinances relating to materials and manner of construction of buildings and structures within the Town.
- C. 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 or 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.
- D. Obstruction of Intersections. All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- E. Low-Hanging Tree Limbs. All limbs of trees which project over and less than 10 feet above any public sidewalk, street, or other public place.
- F. Dangerous Trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- G. Fireworks. All use or display of fireworks except as provided by State Laws and Town Ordinances.
- H. Dilapidated Buildings. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
- I. Low-Hanging Wires and Cables. All wires and cables over streets, alleys, or public grounds which are strung less than 15 feet above the surface thereof.
- J. 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 within the Town.

- K. Obstructions of Streets; Excavations. All obstructions of streets, alleys, sidewalks, or cross-walks and all excavations in or under the same, except as permitted by the Ordinances of the Town but including those 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 or which do not conform to the permit.
- L. Unlawful Assemblies. 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.
- M. Blighted Buildings and Premises. Premises existing within the Town which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences, and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals, or welfare of the people of the Town. The blighted premises contribute to conditions that are dangerous to the public health, safety, morals, and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection, and other public services; the conditions cause a strain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and this shall be fostered and encouraged by this Chapter. It is essential to the public interest that this Chapter be liberally construed to accomplish the purposes of this Subsection.

Section 6. Abatement of Public Nuisance.

- A. Enforcement. The Chief of Police, The Fire Chief, and the Building Inspector 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 ensure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has 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, and decency, the Town Chairman may direct the property officer to cause the same to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.
- C. Abatement After Notice. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not 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 ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection B. above.

- 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 the Laws of the State.
- E. Court Order. Except when necessary under Subsection 2, an officer hereunder shall not 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.

Section 7. Cost of Abatement.

In addition to any other penalty 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 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 8. Penalty Provisions.

- A. General Penalty. Except as otherwise provided, any person who shall violate any of the provisions of this Ordinance shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:
 - 1. First Offense. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, forfeit not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, together with the costs of prosecution, 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. Continued Violation. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Ordinance shall preclude the Town from maintaining any appropriate action to prevent or remove a violation of any provision of the Ordinance.
 - 3. 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.

Section 9. Severability.

If any Section, Subsection, Sentence, Clause or Phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other Section, Subsection, Sentence, Clause, or Phrase hereof. The Town Board of the Town of Geneva hereby declares that it would have passed this Ordinance and each Section, Subsection, Sentence, Clause, Phrase, or Portion thereof irrespective of the fact that any one or more Sections, Subsections, Sentences, Clauses, Phrases, or Portions thereof may be declared invalid or unconstitutional.

Section 10. Effective Date.

This Ordinance shall be effective from and after its adoption by the Town Board and its posting or publication thereof as provided by the Statutes of the State of Wisconsin.

This Ordinance was ADOPTED this 21st day of August, 2023, by a vote of: 5 in favor 0 against 0 abstain.