

ORDINANCE PROHIBITING PUBLIC NUISANCES

WHEREAS, the Town Board of the Town of Springvale 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 Springvale Fond du Lac 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 Springvale.

SECTION 2. DEFINITIONS

(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.

(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 sub. (1) of this section:

(a) All decayed, harmfully adulterated or unwholesome food 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 animals running at large.

(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. This definition shall not apply to odors produced through the operation of farming practices.

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

(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.

(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 sub. (1) of this section:

(a) All loud, discordant and unnecessary noises or vibrations of any kind.

(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.

(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, excavations or unused basements 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.

SECTION 3. ABATEMENT OF PUBLIC NUISANCES

- (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 premises complained of.
- (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 three (3) 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) 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.
- (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 Fond du Lac County.
- (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. 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.

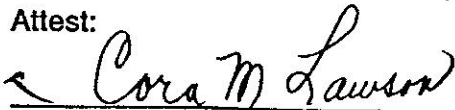
SECTION 6. INTERPRETATION AND SEVERABILITY

(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.

(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.


Town Chairman

Attest:


Town Clerk

Adopted this 3rd day of July, 1989.

Published this _____ day of _____, 1989.

**ORDINANCE AMENDING THE CURRENT
ORDINANCE PROHIBITING PUBLIC NUISANCES**

WHEREAS, the Town Board of the Town of Springvale did, on July 3, 1998²⁹, pass an Ordinance Prohibiting Public Nuisances; and

WHEREAS, the Town finds it necessary to make certain amendments to that Ordinance in keeping with police powers as authorized by Sec. 60.22 of the Wisconsin Stats.;

NOW, THEREFORE, the Town Board of the Town of Springvale, Fond du Lac County, Wisconsin, does hereby amend said previously adopted Ordinance as follows:

- I. Section 2. Definitions shall be amended to read as follows:

SECTION 2. DEFINITIONS

(1) Public Nuisance-General. A public nuisance is a thing act, occupation, condition or use of property, activity or action of a person, group of persons or other legal entity which exists and continues for such a 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) unreasonably 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.

- II. Section 2. number 4 (b) shall be amended to read as follows:

The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall unreasonably annoy or disturb neighbors or other residents of the Town.

- III. Section 3. Abatement of Public Nuisances shall be amended to read as follows:

SECTION 3. ABATEMENT OF PUBLIC NUISANCES

(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 or their designee, shall inspect, or cause to be inspected, the premises complained of.

(2) Notice to Owner. It should be provided that the notice shall be in writing delivered either personally or mailed to the owner of the property which the nuisance exists or mailed to the person causing the nuisance. The purpose of the requirement of written notice is to assure that notice is actually received.

(3) Abatement Actions. If the owner does not abate the nuisance or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of said public nuisance in whatever means the Town shall determine are reasonable and in accordance with the laws of the State of Wisconsin including the filing of legal action with the Fond du Lac Circuit Court if necessary.

IV. Section 4. Costs of Abatement shall be amended to read as follows:

SECTION 4. COSTS OF ABATEMENT

In addition to any other penalty imposed any and all costs incurred by the municipality including costs related to the abatement of the nuisance, court costs, legal fees and similar expenses, will be assessed against the party causing the nuisance and collected in accordance with all applicable provisions of Wisconsin law. Including the right to assess a lien against the real estate.

V. All other sections contained in the original ordinance shall remain in full force and effect except as amended herein.

VI. This ordinance shall be effective as of the date of its publication.

15/ Tom Hollander
Town Chairman

Attest:

15/ Patricia Heyer
Town Clerk

Adopted this 4th day of January, 19 99.

Published this 21st day of January, 19 99.