

ORDINANCE NUMBER 8.01

AN ORDINANCE OF THE TOWN OF BLOOMING GROVE REGARDING PUBLIC NUISANCES

The Town Board of the Town of Blooming Grove, Dane County, Wisconsin, does ordain as follows:

Section 1. Public Nuisances Prohibited.

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

Section 2. Definitions.

(a) Public Nuisance. A public nuisance is a thing, act, occupation, condition or use of property which shall continue 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 in the use of property.
- (3) Greatly offend the public morals or decency.
- (4) 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.

(b) 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. (a) of this section:

- (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 for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

- (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) Privy vaults and garbage cans which are not fly-tight.
- (6) All noxious weeds and other rank growth of vegetation.

The noxious weeds are:

Canada Thistle, Leafy Spurge, Field Bindweed (Creeping Jenny), Marijuana that is not grown or cultivated for lawful commercial purposes, English Charlock or wild Mustard, Goatsbeard, Quack or Quitch Grass, Harmful Barberry, and grass and other rank growth allowed to grow above one foot on any residential lot.

The above-named weeds must be destroyed at such time and in such manner as shall effectually prevent them from bearing seed or spreading to adjoining property as required by the Wisconsin Statutes (Section 94.02).

- (7) All animals running at large.
 - (8) The escape of smoke, 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.
 - (9) 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.
 - (10) Any use of property, substances or things within the Town of Blooming Grove emitting or causing any foul, offensive noisome, nauseous, 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.
 - (11) Any use of property which shall cause any nauseous or unwholesome liquid including but not limited to household chemicals, automotive fluids, paint, stains, and sealers; or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Town.
- (c) Public Nuisances Offending 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 coming within the definition of sub. (a) of this section.

- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and building or structures kept or resorted to for the purpose of prostitution, or gambling.
 - (2) All illegal gambling devices and slot machines as provided by state statute.
 - (3) 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 of Blooming Grove.
 - (4) Any place or premises within the Town of Blooming Grove where Town Ordinances or State laws relating to public health safety, peace, morals, or welfare are openly, continuously, repeatedly and intentionally violated.
 - (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or Ordinances of the Town.
- (d) 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. (a) of this section:
- (1) All signs and 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.
 - (2) All buildings erected, repaired or altered within the Town of Blooming Grove in violation of the provisions of the Ordinances of the Town, relating to materials and manner of construction of buildings and structures within the Town.
 - (3) 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.
 - (4) All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street, or less than 10 feet above any other public place.
 - (5) All use of display of fireworks except as provided by the laws of the State of Wisconsin.

- (6) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use as reported to the Town by the Town Staff and/or building inspector.
- (7) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- (8) All unreasonably loud, and/or unnecessary noises or vibrations of any kind that are excessive and shall disturb the comfort, quiet or repose of persons located within 100 or more feet from the point of origin.
- (9) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
- (10) 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.
- (11) All open and unguarded pits, wells, pools, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (12) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (13) 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.
- (14) Repeated or continuous violations of the Ordinances of the Town or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (15) All waste material which is being disposed in violation of County, State and Federal Regulations.

Section 3. Abatement of Public Nuisances.

- (a) Inspection of Premises. Whenever complaint is made to the Town Board that a public nuisance exists within the Town of Blooming Grove, it shall promptly notify the appropriate person's agency who shall inspect or cause to be inspected the premises complained of and may make a written report of his or her findings to the Town Board. Whenever practicable, the inspecting officer or any board

member shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

(b) Court Order. The Town may direct an authorized person to use force to obtain access to private property to abate a public nuisance but such person 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 to an order assisting the abatement of the public nuisance.

(c) Summary Abatement.

(1) Notice to Owner. If the inspecting officer shall determine 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 notice be served on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises which such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless 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 nuisance, as the case may be.

(2) 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 Board shall cause the abatement or removal of such public nuisance at the property owner's expense.

(d) Abatement by Court Action. If the inspecting officer shall determine 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 or she shall file a written report of his or her findings with the Town Board who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Dane County in accordance with the provisions of ch. 280 of the Wisconsin Statutes.

(e) Other Methods Not Excluded. Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by the Town of Blooming Grove 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. Penalty.

- (a) First Offense/Penalty. Any person who shall violate this subsection, shall, upon conviction thereof, forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution and in default of payment of such forfeiture and cost of prosecution may be imprisoned in the County Jail until said forfeiture and costs are paid but not exceeding 20 days.
- (b) Second Offense/Penalty. Any person guilty of violating this subsection or any part of this subsection who shall previously have been convicted of violation of the same Ordinance or subsection shall upon conviction thereof forfeit not less than \$100.00 nor more than \$750.00 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs may be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid but not to exceed six (6) months.

Section 6. Effective Date.

This Ordinance shall take effect the day after its passage and publication.

The above and foregoing ordinance was duly adopted by the Town Board of the Town of Blooming Grove at a regular meeting held on the 10th day of November, 2009 .

Chairman Dwight Johnson

Supervisor Mark McLaughlin

Supervisor Kathy Linzmeier

Supervisor Arnie Berg

Supervisor Dave Young

I hereby certify that the foregoing ordinance regarding public nuisances was posted on the 12th day of November, 2009

Dated:

Michael J. Wolf, Clerk