

TOWN OF HAYWARD
PUBLIC NUISANCE ORDINANCE

NO. 4-99

As amended through March 21, 2006

Adopted September 14, 1999

Amended March 21, 2006

WHEREAS, the Town of Hayward had determined that it has a duty to protect public health and to protect the rights of the public to utilize their property in a manner consistent with the rights of others to also utilize their property; and,

WHEREAS, the Town of Hayward has statutory authority, powers and duties, pursuant to Section 66.052, Wisconsin Statutes, and Chapters 143, 144, 146 and 823, Wisconsin Statutes, and pursuant to the specific statutory sections noted in this ordinance and by its adoption of village powers pursuant to Section 66.10, Wisconsin Statutes to regulate, control, prevent and enforce against in the Town of Hayward, certain uses, activities, businesses, practices, and operations by persons which may constitute a public nuisance in the Town of Hayward.

NOW, THEREFORE, the Town Board of the Town of Hayward, Sawyer County, Wisconsin, does ordain as follows:

Section 1. Public Nuisance Prohibited. No person shall erect, contrive, cause, continue, maintain, or permit to exist, any public nuisance within the Town of Hayward.

Section 2. Public Nuisance Defined. A Public Nuisance is an object, act, occupation, condition or use of property as further defined in this ordinance, which:

- A. Substantially annoys, injures, or endangers the comfort, health, or safety of the public.
- B. Renders the public insecure in life or in the use of property.
- C. Constitutes criminal conduct as defined in Section 66.051, Wisconsin Statutes.
- D. Substantially interferes with, obstructs, tends to obstruct, or render dangerous for passage any town road, alley, highway, navigable body of water, or other public way or use of public property.
- E. Constitutes a Public Nuisance Affecting Health as defined in this ordinance.
- F. Constitutes a Public Nuisance Affecting Peace and Safety as defined in this ordinance.
- G. Constitutes a Public Nuisance as defined in the Statutes of the State of Wisconsin.

Section 3. Public Nuisance Affecting Health. The following acts, omissions, places, conditions and objects are specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances or hazards within the general definition as defined in Subsection 2. of this ordinance:

- A. Failing to keep waste, refuse, trash, or garbage in an enclosed building or in a closed container designed for such purposes.
- B. Allowing to exist a noxious odor area where emissions of noxious, foul, offensive, noisome, nauseous, odors, gasses repulsive to the senses of ordinary people, continues for an unreasonable period of time causing substantial annoyance or substantial discomfort of persons or causing injury to persons or to property in the Town of Hayward. An unreasonable period of time constitutes a period of time in excess of five days.

PUBLIC NUISANCE ORDINANCE

NO. 4-99

C. Allowing to exist an air pollution area where emissions of smoke, soot, fumes, gasses, ash, dust or other pollutants into the atmosphere repulsive to the senses of ordinary persons continues for an unreasonable period of time causing substantial discomfort of persons or causing injury to persons or property in the Town of Hayward. An unreasonable period of time constitutes a period of time in excess of five days.

D. Allowing to exist a well pollution area where pollution from premises enters the groundwater and causes a private or public drinking water well on property owned by another to become contaminated.

E. Allowing the accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may live or breed.

F. Allowing the existence of carcasses of animals or birds not intended for human consumption or food which are not buried or otherwise disposed of in an appropriate sanitary manner within 24 hours after the death of such animal or bird.

G. Allowing the accumulations of manure from domestic animals and fowl which are handled, stored, or disposed of in a manner which creates a health hazard.

H. Allowing the existence of abandoned wells which are not securely covered or secured from public use.

I. Allowing any condition which renders a building or other structure or any part thereof unsanitary, unhealthy or unfit for human habitation, occupancy or use.

J. Allowing a noxious weed area, where noxious weeds are allowed to exceed one foot (1') in height.

Section 4. Public Nuisances affecting Peace and Safety. The following acts, omissions, places, conditions and objects are hereby declared to be public nuisances affecting peace and safety; however, such enumeration shall not be construed to exclude other nuisances affecting public peace and safety coming within the provisions of Section 2 of this Ordinance.

A. Signs and billboards, awnings and other structures situated over or near to town roads, sidewalks public grounds so situated or constructed as to endanger the public safety.

B. Unauthorized signs, signals, markings or devices placed or maintained upon or in view of public highways or railroad crossings which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance, or manner of operation interferes with the effectiveness of any such traffic control device, sign or signal.

C. Trees, hedges, billboards, or other obstructions which prevent persons driving on town roads, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk. Any such obstruction which falls within a vision clearance triangle extending 75 feet horizontally along each street line from their intersection and within a vertical clearance of 10 feet shall be presumed to violate this subsection.

PUBLIC NUISANCE ORDINANCE

NO. 4-99

D. Limbs of trees which project over the surface of a public sidewalk and are less than 8 feet above the surface of the public sidewalk, or which project over the surface of the portion of a town road, alley, or highway traveled by vehicles and are less than 14 feet above the surface of the town road, alley, or highway.

E. The use of or display of fireworks except as provided by the laws of the State of Wisconsin.

F. Buildings or other structures which are so old, dilapidated, or out of repair and which are therefore dangerous, unsafe, unsanitary, or otherwise unfit for human occupancy or use.

G. Wires located over town roads, alleys or highways which are strung less than eighteen (18) feet from the surface of the road, alley or highway.

H. The keeping or harboring of any animal or fowl which frequently or habitually howls, yelps, barks, crows, or makes other noises which greatly annoy or disturb the peace and tranquility of a neighborhood or any considerable number of persons within the town.

I. Obstruction of town roads, alleys, highways, boat landings, sidewalks, or crosswalks, and all excavation in or under the same, except as may be permitted by ordinances of the Town of Hayward or which may be permitted in accordance with such ordinances of the Town of Hayward, are made, maintained, or continued for an unreasonable length of time after the purpose thereof has been accomplished or for a period of time in excess of that allowed or permitted by said ordinances of the Town of Hayward.

J. Open and unguarded or fenced pits, wells, excavations which are accessible from any town road, alley, highway or sidewalk.

K. Abandoned refrigerators, freezers and other appliances from which the doors and other covers have not been removed or which are not equipped with a device for opening them from the inside.

L. Repeated or continuous violations of the ordinances of the Town of Hayward, the Wisconsin Statutes, or the Wisconsin Administrative Code provisions which relate to the use or storage of flammable liquids.

M. Continuous yard or garage sales or the conducting of more than one (1) garage or yard sale per month of up to a total of three (3) day's duration on private property.

N. The failure, by owners or renters of property, located within a residentially zoned area within the Town of Hayward, to keep the property free of litter, debris, trash, and rubbish, or the failure of property owners and renters, within the Town of Hayward, to allow their property to accumulate trash, litter, or rubbish. Trash, litter, and rubbish, in the meaning of this section, include but are not limited to waste paper scattered about, and untidy accumulation of objects of any kind, the accumulation of objects of little or no worth in a crumbled, broken or inoperable condition, waste materials, construction waste, and refuse of any kind or nature, collected, accumulated, or lying about, not within a building.

PUBLIC NUISANCE ORDINANCE
NO. 4-99

O. The storage of disassembled, inoperable unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailer, fuel tanks or appliances or allowing to remain in the open upon public or private property, within the Town for a period exceeding five (5) days if upon public property, or for a period exceeding thirty (30) days if upon private property. Any business engaged in automotive sales or repair may retain such vehicles in the open, on private property, for a period not to exceed one year, after which time such vehicles must be enclosed by a screening or live planting.

(1) The phrase "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers," as used in this section is defined as follows: motor vehicles or portions of motor vehicles in mechanical ruin incapable of propulsion or being operated upon the town roads or highways.

(2) The term "unlicensed" as referring to motor vehicles, truck bodies, tractors, or trailers as used in this ordinance shall be defined as follows: Motor vehicles, truck bodies, tractors, or trailers which do not bear lawful license plates.

(3) The term "motor vehicle" is defined in Section 340.01(35) of the Wisconsin States.

(4) The term "appliance" as used in this ordinance shall be defined as any stove, washer, refrigerator, freezer, dryer, microwave, television, water heaters and furnaces which is no longer operable in the manner or purpose for which it was manufactured.

P. No person shall leave any unattended motor vehicle, trailer, semi-trailer or mobile home on any town road, highway or public or private property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. When any such vehicle has been left unattended on any town road or highway or on any public or private property within the Town of Hayward without the permission of the owner, for a period of more than seventy-two (72) hour the vehicle is deemed abandoned and constitutes a public nuisance.

Section 5. Abatement of Public Nuisances.

A. Inspection of premises. Whenever complaint is made to the Town Chairman or to a town enforcement officer that a public nuisance exists within the Town of Hayward, the enforcement officer shall promptly and forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Town Chairman. Whenever practical, the town enforcement officer shall cause photographs to be made of the premises and shall file the same in the office of the Town Clerk.

B. Summary Abatement.

(1) Notice to Owner. If the enforcement officer shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety or peace, the Town Chairman may direct the enforcement officer to serve a notice upon a person causing, permitting, or maintaining such nuisance, whether an owner or occupant of the premises where such nuisance is caused, permitted, or maintained. If immediate personal service cannot be made, a copy of such notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant thereof, as well as certified return receipt request mail notice to the last known owner of said property.

PUBLIC NUISANCE ORDINANCE
NO.4-99

Such notice shall direct the person causing, permitting, or maintaining such nuisance, or the owner or occupant to the premises to abate and remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Town may cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, permitting or maintaining the nuisance.

(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 enforcement officer or Town Chairman in the case of health nuisances and other cases shall cause the abatement or removal of such public nuisance.

(3) Abatement by Court Action. If the enforcement officer and or Town Chairman 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, or peace, he shall file a written report of his findings with the Town Chairman who shall cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Sawyer County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes. In the alternative, the Chairperson may direct the enforcement officer to issue one or more citations for each day of violation for a said time period, and to report back whether compliance has occurred.

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

Section 6. Costs 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 abatement of any public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting, or maintaining the nuisance, including reasonable attorney's fees to the extent not prohibited by law. If notice to abate the nuisance has been given to the owner previously, such cost shall be assessed against the real property where such violation occurred as a special charge unless paid earlier.

Section 7. Enforcement Provisions.

(1) First Offense/Penalty. Any person who shall violate the provisions of this ordinance shall, upon conviction thereof, forfeit the sum of \$100.00, together with the court costs and the costs of prosecution.

(2) Second Offense/Penalty. Any person who shall violate a provision of this ordinance, who shall previously have been convicted of a violation of the same provision of this ordinance, shall, upon conviction thereof, forfeit the sum of \$200.00 for each such offense, together with the court costs and the costs of prosecution.

(3) Each day of violation of this ordinance shall constitute a separate offense.

PUBLIC NUISANCE ORDINANCE
NO.4-99

Section 8. Severability. The provisions of this ordinance shall be deemed severable and it expressly declared that the Town Board may pass other provisions which may make provisions of this ordinance invalid. If a provision of this ordinance or the application thereof, to any person or circumstance, is held invalid, the remainder of the ordinance and the application of such provisions to other persons and circumstances shall not be affected thereby.

Section 9. Repealed. The prior public nuisance ordinance, Town of Hayward Public Nuisance Ordinance No. 25-91, adopted at a meeting of the Town Board of the Town of Hayward on March 5, 1991, be and is hereby repealed.

Section 10. Effective date: This ordinance shall take effect upon its passage and publication as provided by law.

The foregoing ordinance was adopted at a regular meeting of the Town Board of the Town of Hayward on September 14, 1999 and amended on March 21, 2006.

The Original Ordinance and amendment are on file at the Town of Hayward.