

ORDINANCE NO. L101205-1

AN ORDINANCE RELATING TO THE CONTROL OF NUISANCES IN THE TOWN OF LIBERTY

WHEREAS, the Town of Liberty Board has been granted village powers by the electors at a duly noticed annual Town meeting, in accordance with Wisconsin Statutes Section 60.10(2)(c), and has the power granted to villages in accordance with Wisconsin Statutes Section 60.22(3).

WHEREAS, it is in the public interest and welfare to define and prohibit public nuisances in the Town of Liberty, as provided herein.

NOW, THEREFORE, the Board of Supervisors of the Town of Liberty, Outagamie County, Wisconsin, does ordain as follows:

SECTION 1 – STATUTORY AUTHORITY:

Pursuant to Wisconsin Statutes Section 60.22(3), and Wisconsin Statutes Chapter 823, the Board of Supervisors of the Town of Liberty, Outagamie County, Wisconsin, hereby defines and prohibits public nuisances in the Town of Liberty, Outagamie County, Wisconsin as described herein.

SECTION 2 – PURPOSE:

The purpose of this ordinance is to define and prohibit public nuisances in the Town of Liberty, Outagamie County, Wisconsin.

SECTION 3 – PUBLIC NUISANCES PROHIBITED:

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Town of Liberty, Outagamie County, Wisconsin. The language of Chapter 823 of the Wisconsin Statutes is hereby incorporated in this ordinance, and made a part hereof as though set forth in full.

SECTION 4 – DEFINITIONS:

- A. **PUBLIC NUISANCE:** A public nuisance is an object, act, occupation, condition, or use of property which shall continue as for such 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, or 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 objects are hereby specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other health nuisances or hazards coming within the definition of subsection A. of this Section.
1. An air pollution area where emissions of smoke soot, fumes, gases, ash, dust, or other pollutants into the atmosphere repulsive to the senses of ordinary persons which are allowed to continue to the substantial annoyance or substantial discomfort of a person or persons, or are allowed to cause injury to persons or property.

C. **PUBLIC NUISANCES AFFECTING PEACE AND SAFETY:** The following acts, omissions, places, conditions, and objects are hereby specifically declared to be public nuisances affecting peace and safety, however such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection A. of this Section:

1. All unauthorized signs, billboards, and other structures over or near roads, highways, or other public grounds so situated or constructed as to endanger the public safety.
2. Any trees, hedges, signs, billboards, or other obstructions which prevent persons driving vehicles on public roads or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
3. The use of or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Town.
4. All loud, discordant, and unnecessary noises or vibrations of any kinds which greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.
5. The use of Engine(Jake) Brakes except under emergency circumstances.

D. **PUBLIC NUISANCES - OTHER:** The following acts, omissions, places, conditions, and objects are hereby specifically declared to be public nuisances offending the comfort, health, repose, or safety of the Town of Liberty, but such enumeration shall not be construed to exclude other public nuisances within the definition of subsection A. of this Section:

1. All Owners of property located within the Town of Liberty who fail to keep their premises free of litter, debris, trash, or rubbish shall be in violation of this subsection.
2. "Litter" as used in this ordinance includes but is not limited to trash and waste paper laying scattered about, and an untidy accumulation of objects of any kind.
3. "Trash" as used in this ordinance includes but is not limited to some thing or object worth little or nothing, or some thing or object in a crumbled, broken, or inoperable condition.

SECTION 5 – ABATEMENT OF PUBLIC NUISANCES:

A. **INSPECTION OF PREMISES:** Whenever a complaint is made to the Town Chairperson, Town Supervisor, or Town Constable, herein after referred to as a Town Enforcement Officer, that a public nuisance may exist within the Town of Liberty, 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 Board. Whenever practicable, the Town Enforcement Officer shall cause photographs to be made of the premises and shall file the same with the report.

B. **SUMMARY OF ABATEMENT:**

1. **Notice to Owner:** If the Enforcement Officer determines that a public nuisance exists within the Town of Liberty, and that there is a significant and immediate risk to the public health, safety, peace, or otherwise well being of the Town residents, the Enforcement Officer may serve a notice upon the person causing, permitting, or maintaining such nuisance whether the Owner or occupant of the premises where such nuisance is caused, permitted, or maintained. If immediate personal contact 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 direct mail notice to the last known Owner of said property. Such notice shall direct the person or persons causing, permitting, or maintaining the nuisance, or the Owner or occupant of the premises to abate and remove such nuisance within twenty-four (24) hours or such time as agreed upon by the Town Enforcement Officer.
2. **Town Board Action:** After the issuance of the Notice to Owner as stated above, but before the time agreed upon to abate and remove such nuisance, the Owner or occupant may request in writing that the Town of Liberty Board at a regularly scheduled meeting, hear the issues relating to the nuisance before

Court Action as described below is undertaken. If such request is not made, Abatement by Court Action may proceed without further Town Board involvement.

3. Abatement by Court Action: If the Enforcement Officer determines that a public nuisance exists within the Town of Liberty; a Notice to the Owner, occupant, or other person or persons responsible for the public nuisance is duly issued; and the required abatement and removal are not satisfactorily undertaken within the specified time frame, the Town Enforcement Officer shall cause an action to abate such nuisance to be commenced in the name of the Town of Liberty in the Circuit Court of Outagamie County in accordance with the provisions of Chapter 823 of the State of Wisconsin Statutes. In addition, the Enforcement Officer may issue one or more citations for each day of violation until compliance has occurred.

SECTION 6 – COSTS OF ABATEMENT:

- A. In addition to any other penalty imposed by this ordinance for the causing, permitting, or maintaining of a public nuisance, the cost of the abatement or removal of said public nuisance by the Town or any entity other than the premise's Owner, occupant, person or persons responsible for the public nuisance, shall be collectable as a debt from the premise's Owner, occupant, person or persons causing, permitting, or maintaining the public nuisance. If the Notice to Owner has been given previously, such cost may be assessed against the real property where such violation occurred as a special charge.

SECTION 7 – PENALTY:

- A. FIRST OFFENSE/PENALTY: Any Owner, occupant, person or persons who shall violate this Ordinance shall, upon conviction thereof, forfeit not less than \$10 nor more than \$200 together with the cost of prosecution; and in default of payment of such forfeiture and cost of prosecution. shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding ninety (90) days.
- B. SECOND OFFENSE/PENALTY: Any Owner, occupant, person or persons violating this Ordinance or any part thereof who have previously been convicted of violation of the same Ordinance, shall upon conviction thereof, forfeit not less than \$20 nor more than \$400 for each such offense, together with the costs of prosecution and any default in payment of such forfeiture, and the costs to be imprisoned in the County Jail until such time as said forfeiture and costs have been paid, but not to exceed six (6) months.
- C. OFFENSE/PENALTY: Each day of violation of this Ordinance shall constitute a separate offense.

SECTION 8 - SEVERABILITY

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to the terms of that conflict.

SECTION 9 – EFFECTIVE DATE

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 2005

By:

Michael Ubl, Chairman

Tom Lambie, Supervisor

William Jurack, Supervisor

I, Kristi Blumreich, Clerk of the Town of Liberty do hereby certify that this is an exact and true copy of ordinance L101205-1 passed by a majority vote, with a quorum present by the Town Board of Liberty.

Given under my hand and seal this _____ day of _____

Kristi Blumreich, Clerk