

**TOWN OF WINDEMERE
COUNTY OF PINE
STATE OF MINNESOTA**

**ORDINANCE NO. _____
AN ORDINANCE DEFINING NUISANCES,
PROHIBITING THEIR CREATION OR
MAINTENANCE AND PROVIDING FOR
ABATEMENT AND PENALTIES FOR
VIOLATION THEREOF**

The Town Board of the Town of Windemere Ordains as follows:

Section 1. **Purpose.** The purpose of this ordinance is to protect the general, health, safety and welfare of the citizens of the Town of Windemere by prohibiting the occurrence and maintenance of public nuisances and eliminating junk and blight within the Town. The ordinance allows for the abatement of public nuisances and provides penalties for and remedies against those causing or maintaining a public nuisance.

Section 2. **Public Nuisance Defined.** A public nuisance is a thing, act or use of property which:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable numbers of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Any other act or omission declared by law or this ordinance to be a public nuisance.

Section 3. **Public Nuisance Affecting Health.** The following are hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All animals running at large;
- C. All manmade ponds or pools of stagnant water;

- D. Carcasses of animals not buried or destroyed within 24 hours after death;
- E. Accumulations of manure, refuse, or other debris;
- F. The discharge, disposal, accumulation, or collection of gray water, sewage or industrial waste without proper permit or approval;
- G. Garbage cans or other refuse containers which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors and which waste is not removed at least every two weeks;
- H. The pollution of any public well or cistern, stream or lake, canal or other body of water by gray water, sewage, industrial waste, or any other substances;
- I. All noxious weeds, as defined in Minnesota Rules 1505.0730, and other rank growths of vegetation, upon public or private property.
- J. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- K. All public exposure of persons having a contagious disease;
- L. Any offensive trade or business as defined by either ordinance or State Statute which is not operating under local license, or such trade or business whose operation constitutes a clear and present danger to the health of the public in general.
- M. Depositing garbage, rubbish, litter or refuse on any public property, including streets, sidewalks, and parks, except in public receptacles and in such a manner that the garbage, rubbish or litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place.

Section 4. **Public Nuisances Affecting Morals and Decency**. The following are hereby declared to be nuisances affecting public morals and decency:

- A. Any gambling device not authorized by State Law and not properly permitted by the appropriate jurisdiction, including, but not limited to, slot machines and punch boards;

- B. Betting, or bookmaking, not allowed by State Law, and all apparatus used in such operations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- D. All places where intoxicating liquor or illegal drugs are manufactured, dispensed or disposed of in violation of law or where, in violation of law, persons are permitted for the purpose of drinking intoxicating liquor or ingesting or otherwise using illegal drugs, or where intoxicating liquor or illegal drugs are kept for sale or other disposition in violation of law, and all liquor, illegal drugs, and other property used for maintaining such places;
- E. Any vehicle used for the illegal transportation of intoxicating liquor and/or illegal drugs, or for prostitution and/or other immoral or illegal purpose.

Section 5. **Public Nuisances Affecting Peace and Safety.** The following are declared to be nuisances affecting public peace and safety:

- A. Depositing, or causing to be deposited, any snow or ice on or against any fire hydrant or on any sidewalk or roadway;
- B. All trees, hedges, billboards, or other obstructions, which prevent persons from having a clear view of all traffic approaching an intersection;
- C. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- D. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by Town Ordinances or other applicable law;
- E. Placing or storing on any street, sidewalk, alley or public right-of-way any boxes, goods, wares, merchandise, building materials, machinery, business or trade article except for the purpose of immediately transferring the same to some other proper place;
- F. Any tree, shrub, bush, or other vegetation located on private property, which obstructs use or travel on any public right-of-way;

- G. Radio aerials or television antennae erected or maintained in a dangerous manner;
- H. Any use of property abutting a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk and which activity is conducted without a permit, license or other permission duly granted by the Town;
- I. All hanging signs, awnings, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- J. The allowing of rain water, ice, snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- K. Any electric or barbed wire fencing strung lower than six feet in height and within three feet of a public sidewalk or way, except when used in conjunction with agricultural uses in an area zoned for such use;
- L. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- M. Waste water, including gray water, cast upon or permitted to flow upon streets or other public property;
- N. Accumulations in the open of broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials (but excluding building materials awaiting use and stored for a reasonable period of time for an improvement presently in progress on the same premises), discarded or unused machinery, household appliances, automobile bodies, trash, debris, rubbish or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or items accumulated in a manner creating fire, health, or safety hazards;
- O. Any well, hole, or similar excavation which is left open or uncovered or in such other condition as to constitute a danger to any child or other person coming on the premises where it is located;
- P. Obstruction of the free flow of water in a natural waterway, a public street drain, storm sewer, gutter, or ditch with trash or other materials;

- Q Digging excavations, placing culverts, placing dams, or doing any act which may alter or affect the drainage of public property, streets, alleys or sidewalks; or affect flows of the public storm sewer and drainage ditch system, without authorization by the Town;
- R. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance;
- S. The deposition of garbage or refuse on a public right-of-way or on adjacent private property;
- T. Throwing, placing, or depositing dirt, rocks, sand, leaves, trash, lawn clippings, weeds, grass, or other materials in the streets, sidewalks, ditches or other public ways and the gutters thereof;
- U. Permitting dirt, rocks or mud from construction or landscaping activities to be carried or deposited onto nearby streets, storm sewers, sidewalks, ditches or other public ways and the gutters thereof;
- V. All other conditions or things that are likely to cause injury to the person or property of anyone;
- W. The keeping of any used refrigerator, icebox, or freezer in a location or manner accessible to children which is not in service and which has the door latch intact;
- X. The outdoor keeping of non-farm animals which make habitual or excessive barking, howling, crying, whining, baying, or other detectable sounds which disturb the peace and quiet of adjacent or nearby properties or can audibly be heard from the property line. Habitual or excessive animal noises are those which occur repeatedly for a period of five minutes or more with a time lapse of 30 seconds or less between such noises.

Section 6. **Storage of Personalty.**

- A. Unsheltered storage of both unused, stripped, or junked items that are not in a good and safe operating condition, or that do not, but otherwise should bear a current State of Minnesota License or Registration, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no

longer safely usable for the purposes for which it was manufactured. Except as exist in licensed junkyards, all such items are hereinafter described as "said personalty", and are hereby declared to be a nuisance and dangerous to the public safety if so kept within the Town of Windemere for any period of thirty (30) days or more in any given year.

- B. For the purposes of this ordinance unsheltered storage means said personalty, which is not stored in a permitted building complying with the then existing and controlling Town ordinances. For the purposes of considering whether or not a continuing violation exists, the period of one year commences upon the date of notice of the violation. In the event that any violation is corrected but a same or similar act occurs within the one-year time period set forth above, it shall be considered a continuation of the original violation and each day that said violation exists may be considered a separate violation as well as a continuation of the original violation.
- C. Abatement by Owners. The owner, owners, tenants, lessees and/or occupants of any lot within the Town of Windemere upon which such above prohibited storage or any other violation of this ordinance is made, and also the owner, owners, and/or lessees of said personalty involved in such storage or any other material constituting a violation of this ordinance, all of whom are hereinafter collectively referred to as "owners", shall jointly and severally abate said nuisance by a) the prompt removal of said personalty or materials into completely enclosed buildings authorized to be used for such purposes, b) remove said personalty to a licensed junkyard or waste facility, or c) remove said personalty to a location outside ~~the corporate limits~~ of the Town of Windemere.
- D. Abatement by the Town. Whenever said owners fail to abate such nuisances the Town shall remove the said personalty or materials to a location of its selection. Abatement of such nuisance by the Town shall be in accordance with Section 11 of this ordinance. Costs incurred by the Town during said abatement, including the cost of storage or disposal, shall be recoverable from the said owners, jointly and severally, in accordance with Section 12 of this ordinance or in any other manner authorized by law.
- E. Disposal of Property After Abatement by the Town. When said personalty or materials have been removed and placed in storage by the Town, as provided for herein, said personalty shall be sold by the

Town after the lapse of such time as is provided for by law. If the proceeds of such sales are insufficient to pay the costs of abatement and storage said owners shall be liable to the Town for the balance of the costs. If the proceeds are in excess of the costs, including storage, the balance shall be paid to said owners or deposited in the Town Treasury for their use.

Section 7. **Adoption by Reference.** The "Hazardous Building Law, " Minnesota Statutes 463.15 through 463.261, is adopted by reference. Any hazardous building or dangerous excavation may be abated in accordance with these provisions.

Section 8. **Responsibility.** The owner and tenant of any premises on which a violation of this ordinance occurs shall make every reasonable effort to see that the violation ceases. Violations of this ordinance shall be deemed the act of both the person committing the act and the person in possession, control, custody, or having charge of the premises who allows or permits the violation to take place. Violations of this ordinance shall also be deemed the act of a nonresident landlord, provided he or she has received written notice from the Town of the violation and has failed to make every reasonable effort to see that the violation ceases.

Section 9. **Omitted.**

Section 10. **Enforcement.**

- A. **Officers.** The Town Board shall have the duty of enforcing the provisions of this Ordinance. In addition, any law enforcement agency with which the Town Board has contracted for law enforcement services shall have the authority to enforce the provisions of this Ordinance. The Town Board may, by resolution, delegate to other officers or agencies the power to enforce particular provisions of this Ordinance, including the power to inspect private premises, and the officers charged with enforcement of this Ordinance shall take all reasonable precautions to prevent the commission and maintenance of public nuisances.

Section 11. **Abatement.**

- A. **General.** Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the Town, the officer shall notify the owner or occupant of the premises in writing of such fact, and order that such nuisance be terminated or

abated. The Notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the Notice may be served by posting it on the premises. The Notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding thirty (30) days, within which the nuisance is to be abated. Within those thirty (30) days, the owner or the occupant of the premises may enter into a Settlement Agreement with the Town that specifies the terms of the abatement.

If the notice is not complied with within the time specified, the enforcing officer may cause notice of hearing to be delivered to the owner or occupant of the property at least seven (7) days prior to a scheduled hearing by the Town Board. Mailed and posted notice may be used provided that it is posted and mailed at least seven (7) days prior to the date of the hearing. Thereafter, the Town Board may, after notice to the owner or occupant and an opportunity to be heard, provide for abating the nuisance by the Town. The Town Board may by resolution adopt a Notice of Abatement, which shall set forth the nuisance to be abated and shall indicate a date and time on which the Town will enter onto the property and abate the nuisance. The notice shall also notify the property owner that the costs of abatement will be billed to the property owner and if not paid will be assessed against the property. The Notice of Abatement shall be served upon the owner and/or occupant in person or by certified or registered mail at least seven (7) days prior to the proposed date for the Town to abate the nuisance. If the premises is unoccupied or the owner and/or occupant cannot be served, notice may be posted upon the premises at least seven (7) days prior to the proposed abatement.

- B. Court Process. As an alternative, the Town Board may authorize the Town Attorney to bring an action in Pine County District Court seeking to abate the nuisance. In such case, the Town Attorney may bring a civil or criminal action in Pine County District Court against the property owner and/or occupant seeking a criminal conviction of the terms of this ordinance or seeking a civil order requiring the property owner and/or occupant to abate the nuisance, or in the alternative, authorizing the Township to enter upon the property and abate the nuisance at the property owner and/or occupant's expense.
- C. Emergency Abatement. When the officer charged with enforcement determines that a nuisance constitutes a serious and eminent danger to the public safety or health, the officer may summarily abate the nuisance after a reasonable attempt to notify the owner or occupant of

the property. The officer shall immediately thereafter notify in writing the owner or occupant of the premises of the action taken. The notice shall be served in person or by registered or certified mail.

Section 12. **Recovery of Cost.** The Township may recover all costs incurred in enforcing this ordinance by any or all of the following methods:

- A. **Personal Liability.** The owner of the premises on which a nuisance has been abated by the Town shall be personally liable for the cost to the Town of the abatement, including legal and administrative costs. As soon as the work has been completed and the costs determined, the clerk or other official designated by the Town Board shall prepare a bill for the cost and mail it to the owner. Thereupon, the amount shall be immediately due and payable at the Office of the Clerk.
- B. **Certification to property taxes.** The Town Board may certify any unpaid charges resulting from the enforcement of this ordinance, including attorneys' fees and court costs, costs of disposal and all other costs incurred by the Township, to the property against which this ordinance was enforced pursuant to Minn. Stat. § 366.012.
- C. Any other method authorized under Minnesota law.

Section 13. **Penalty.** Any person violating any provision of this ordinance shall, upon conviction be guilty of a misdemeanor and shall be punished pursuant to applicable State Statute regarding misdemeanor penalties, as amended, plus the costs of prosecution. Each day a nuisance continues to exist is deemed a separate punishable offense under this ordinance. The Town may, in its discretion, seek any civil remedies available to it as well, including but not limited to injunctive relief or abatement. Each right or remedy accruing to the Town under this ordinance or at law is separate and distinct and may, in the Town's discretion, be exercised independently or simultaneously with any other right or remedy.

Section 14. **Separability.** Every section, provision or part of this ordinance is declared separable from every other section, provision or part; and if any section, provision or part thereof shall be held invalid by a court of competent jurisdiction, it shall not affect any other section, provision, or part.

Section 15. **Effective Date.** This Ordinance is effective upon its passage and publication according to law.

Section 16. **Repealer.** Any previous ordinance adopted by the Town of Windemere that is inconsistent with this ordinance is hereby repealed to the extent of such inconsistency.

Passed this 8th day of February, 2024.

Chair, Town of Windemere

ATTEST:

Town Clerk