

ORDINANCE OF THE TOWN OF COTTAGE GROVE, WISCONSIN
Adopted pursuant to Sec. 25.01 of the Town of Cottage Grove Code

Title: Public Nuisances

Code Section(s), created , amended, or repealed	<u>Section 11.06</u>
Presented to Board by	<u>Chuck Nahn, Stormwater Consultant</u>
Committee Review by	<u>None</u>
Date(s) Public Hearing(s) held (if required)	<u>December 15, 2008</u>
Date adopted	<u>December 15, 2008</u>
Vote	<u>4-0</u>
Date of posting of adoption of ordinance	<u>January 2, 2009</u>
Date of publication of adoption of ordinance	<u>January 7, 2009</u>

The Town Board of the Town of Cottage Grove does ordain as follows:

TCG Ord. Section 11.06 entitled "Public Nuisances" is hereby amended to read as follows:

11.06 PUBLIC NUISANCES

(1) DEFINITIONS

(a) "Authorized agent" means employees or designees of the Town of Cottage Grove authorized to administer or enforce this Chapter, including but not limited to Police Officers, Building Inspectors, Fire Inspectors, the Highway Superintendent or Weed Commissioner.

~~(a)~~ (b) "Public nuisance" means any thing, act, occupation, condition or use of property, which continues 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 the use of property.
3. Offend the public morals, or the community's standards of decency.
4. Unlawfully, and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage, any highway, navigable body of water, other public way or property.
5. Generate loud, discordant, and unnecessary noises, or vibrations of any kind; including, but not limited to, sound levels in excess of those specified in Table G-16 of the OSHA General Industry Standards [29 CFR 1910.95]. A copy of the current Table G-16 is attached as Appendix 11-C, with the same force and effect as if it were fully reprinted herein.

(c) "Public nuisances affecting health" include, but are not limited to, the following:

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 and processed for human consumption which are not buried or otherwise disposed of in a sanitary manner, within 24 hours after death.

3. Accumulations of stagnant water within a platted subdivision; in which mosquitoes, flies, or other insects can be expected to breed. Approved retention ponds on public property are exempt from this section.
 4. Air emissions in excess of levels permitted by the Wisconsin Department of Natural Resources (DNR).
 5. The pollution of any waters of the state, in violation of any DNR regulation.
 6. Any use of property, substances, or things within the town limits, emitting any offensive or noxious odor or effluent; which is found to discomfort, annoy, or inconvenience an appreciable number of town residents. All wells, septic tanks, grease traps, cisterns, privy vaults, and day wells not covered or otherwise secured to prevent unauthorized access.
- (d) "Public nuisances affecting community morals" include, but are not limited to the following:
1. All lewd acts conducted while in view of the public; whether or not the party involved was in a private residence.
 2. All bawdy houses, and any building or structure maintained for the purposes of gambling, prostitution or promiscuous sexual activity.
 3. Any place classified as an alcohol beverage establishment, under ch.125, Stats. and ch. TCG O5; that does not have a valid license issued by the town.
 4. Any place where town ordinances, or state statutes, are openly, repeatedly, and intentionally violated.
- (e) "Public nuisances affecting safety" include, but are not limited to, the following:
1. All signs, awnings, and similar structures, over or adjacent to, parks and other public areas, situated such that they endanger the public.
 2. All trees, hedges, signs, or other obstructions adjacent to a highway, which limit the sight distance of any person approaching an intersection.
 3. All tree limbs, branches, and other non-conductive obstructions over any highway within the town limits; less than 14 feet above the paved surface of the highway.
 4. All wires, cables, and other conductive obstructions over any highway within the town limits; less than 18 feet above the paved surface of the highway.
 5. All trees which fall in whole, or in part, into the highway right-of way or onto any other public lands.
 6. All refrigerators, or other containers with air-tight doors, which are located outside of a residence or other secured structure; which have not had all the doors removed, or are not equipped with a device for opening the door from the inside.

(2) REGULATION OF PUBLIC NUISANCES

- (a) No person shall create, or maintain, any public nuisance, as described in (1)(a-e), within the town limits.

(b) All reports of public nuisances within the town limits, shall be initially investigated by the police department; with citations issued as deemed appropriate. In the event there appears to be a violation that warrants additional investigation; the police department will promptly notify the weed commissioner, or highway superintendent, or appropriate building, electrical, or fire inspector for their inspection and follow-up report.

(c) All follow-up investigation reports shall be documented in writing; and where appropriate, video tape, or photographs, shall document the conditions found.

(d) All sound level monitoring shall be conducted at the property line of the parcel upon which the sound is generated; or at any alternate location determined to be appropriate. All noise levels shall be measured on the A scale of a standard sound level meter at slow response.

(e) **NOTICE AND ORDER OF VIOLATION.** If the follow-up investigation reveals that a public nuisance exists, the ~~police department~~ authorized agent shall issue a ~~municipal citation~~ notice of violation to the person responsible for the nuisance, ordering specific remedial action and a specific time for abatement. In the event the nuisance is not abated within the time period allowed, the person responsible for the nuisance shall be in violation of this ordinance and subject to the penalties specified in (3) and (4).

(3) NONCOMPLIANCE – REMEDY OF DEFECTS; ABATEMENT

(a) The person responsible for the violation shall have the time specified in the order of violation to remedy the violations.

(b) The authorized agent shall, in his or her discretion, have the ability to extend the time for corrections if the circumstances warrant an extension and the person responsible for the violation is making a good faith effort to correct the violations.

(c) If the person responsible for the violation, after order of violation, fails or refuses to timely remedy the violations, then the Town, at its sole option, may cause such work to be done. If the Town exercises this option, the authorized agent shall enter upon the responsible person's property and cause the nuisance to be removed or abated and the Town shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance. Prior to commencing such work, the authorized agent shall do the following:

1. Provide notice to the person responsible for the violation, via either personal service or certified mail with return receipt or commercial delivery with verified delivery (such as Federal Express), that the Town will abate the violations along with an estimate of the approximate dates and times during which the abatement will occur; and
2. Have Town Clerk certify the approximate cost for any such work done, including reasonable costs for administration and Inspection fees (collectively, "costs of abatement"), and provide notice of same to the person responsible for the violation ("Abatement Order").

(d) Following such notice and Abatement Order, the person responsible for the violation shall give the persons designated by the Town full access to the land and the exterior of the buildings and structures to abate the violations. Any person affected by such Abatement Order shall, within thirty (30) days of service of the order, apply to the Circuit Court for an order restraining the Town and the authorized agent from entering on the premises and abating or removing the nuisance, or be forever barred. The Court shall determine the reasonableness of the Abatement Order.

(e) If the person responsible for the violation fails to pay the costs of abatement within 30 days of the notice from the Town Clerk, interest shall accrue against the balance due at the rate of 1% per month and the total balance due shall become a lien against real estate on the next tax roll and collected as a special charge in accordance with law. If the person responsible for the violation is not a property owner in the Town of Cottage Grove, the Town may seek other restitution options.

(4) PENALTY FOR VIOLATION

In addition to, and separate from, any of the procedures set for above and any liability resulting from a failure to comply with any applicable state statute or administrative rule; violations of this ordinance shall be punishable as class C forfeitures, under s. TCG 25.04.

(5) EFFECTIVE DATE

(a) The original ordinance was adopted on 11 Mar 1994 and amended on December 15, 2008.

(b) This section shall take effect upon passage and publication.

Adopted this 15th day of December, 2008, by a vote of 4 for, 0 against, and 0 abstain.

TOWN OF COTTAGE GROVE

Kris Hampton, Town Chair

ATTEST:

Kim Banigan, Town Clerk

Approved as to form as of this
15th day of December, 2008.

ANDERSON & KENT, S.C.

Constance L. Anderson
Cottage Grove Town Attorney