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COUNTY AUDITOR

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COUNTY RECORDER
STEARNS COUNTY, MN
DIANE GRUNDHOEFER

BY *DM* DEPUTY

**TOWN OF LYNDEN
ORDINANCE 05-01
PROHIBITING PUBLIC NUISANCES**

SEAL

TOWN OF LYNDEN

ORDINANCE NUMBER 05-01

AN ORDINANCE DEFINING AND PROHIBITING PUBLIC NUISANCES AND PROVIDING A PENALTY FOR VIOLATION

The Board of Supervisors of the Town of Lynden, pursuant to Minnesota Statutes Section 365.10, Subd. 17, ordains as follows:

Section 1. Public Nuisance Defined.

Whoever by an act or failure to perform a legal duty intentionally does any of the following, is guilty of maintaining a public nuisance, which is a misdemeanor:

- a. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose or any considerable number of members 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. Is guilty of any act or omission declared by law or this Ordinance to be a public nuisance and for which no penalty is specifically provided.

Section 2. Public Nuisances Affecting Health.

The following are hereby declared to be public nuisances affecting health:

- a. Exposed accumulation of decayed or unwholesome food or vegetable matter, except for such matter placed in permitted compost heaps;
- b. All diseased animals running at large;
- c. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- d. Accumulations of manure, refuse, garbage, or other debris not contained in tight-covered receptacles;

- e. Privy vaults and garbage cans 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;
- f. The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, industrial waste, or other substance;
- g. All noxious weeds and other rank growths of vegetation upon public or private property;
- h. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
- i. All public exposure of persons knowingly having a contagious disease;
- j. Any offensive trade or business as defined by statute not operating under local license;
- k. Sewage, septic system effluent or seepage from a soil treatment system which may constitute a health hazard, emit foul and disagreeable odors, or otherwise threaten or damage real or personal property of others.

Section 3. Public Nuisances Affecting Morals.

The following are hereby declared to be nuisances affecting public morals and decency:

- a. All gambling devices, slot machines, and punch boards, except as otherwise authorized by ordinance or state law;
- b. Betting, bookmaking, and all apparatus used in such occupations;
- c. All houses kept for the purpose of prostitution or promiscuous sexual conduct, gambling houses, houses of ill fame, and bawdy houses;
- d. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition of

violation of law, and all liquor and other property used for maintaining such a place;

- e. Any vehicle used for promiscuous sexual conduct or any other immoral or illegal purpose.

Section 4. Public Nuisance Affecting Peace and Safety.

The following are declared to be nuisances affecting public peace and safety:

- a. All trees, hedges, billboards, or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- b. All structures, wires, and limbs of trees which are less than eight (8) feet above the surface of the ground over any street right-of-way;
- c. Any distinctly and unduly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, precludes the enjoyment of property, or affects a property's value;
- d. Obstructions and excavations affecting the ordinary use by the public rights-of-way, alleys, sidewalks, or public grounds, except under such conditions as are permitted by this Ordinance or other applicable law;
- e. Radio aerials or television antennae erected or maintained in a dangerous manner;
- f. All interference and disturbance of radios and television sets caused by electrical appliances and equipment or improper operation thereof;
- g. All use or display of fireworks and use of explosives, except as permitted by law;
- h. Any use of property abutting on a public right-of-way or sidewalk or any use of a public right-of-way or sidewalk which causes large crowds to gather, obstructing traffic or the free use of the right-of-way or sidewalk;

- i. All hanging signs, awnings, or other similar structures over public rights-of-way and sidewalks, or so situated so as to endanger public safety or not constructed and maintained as provided by ordinance;
- j. All dangerous, unguarded machinery in any public place or so situated or operated on private property as to attract the public;
- k. Waste water, waste automobile crankcase, or transmission oil, or any hazardous substance as defined by state or local law or rule past upon or permitted to flow upon public rights-of-way or other public property;
- l. Accumulation in the open of discarded or disused machinery, household appliances, automobile bodies, 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 in a manner creating fire, health, or other safety hazards from such accumulation;
- m. To store in any area open to the public, any unused icebox, refrigerator, freezer, or other box with a door attached thereto, which will effectively exclude air when shut;
- n. Any well, hole, basement, or other excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- o. Obstruction to the free flow of water in a natural waterway or a public right-of-way drain, gutter, or ditch with trash, debris, or other materials;
- p. The placing or throwing on any public right-of-way, sidewalk, or other public property of any glass, nails, bottles, or any other substance which may injure any person or animal or damage any vehicle tire when passing over such substance;
- q. The depositing of garbage or refuse on a public right-of-way, public property, or on adjacent private property, except if placed inside tightly sealed containers which are placed specifically for garbage or refuse pickup by an authorized public or private contractor;
- r. Any unattended vehicle which constitutes an obstruction to traffic or hinders snow removal or street improvement;

- s. Any motor vehicle not stored within a fully enclosed permanent structure and which: 1) does not have a valid license; or 2) is inoperable;
- t. All other conditions or things which are likely to cause injury to the person or property of anyone.

Section 5. Enforcement Duties of Officers.

The Town Clerk and County Sheriff shall enforce the provisions of this Ordinance relating to nuisances affecting health, and duly authorized County or State health officers may enforce such provisions. The Town Clerk and County Sheriff shall enforce the provisions of this Ordinance relating to nuisances affecting public safety and the officers have the power to inspect public and private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances; however, except in cases of emergency imminently dangerous to the public health, safety, or welfare, such inspections must be done pursuant to a search warrant issued by a court of competent jurisdiction if access to private premises for such inspection is denied by the owner or occupant.

Section 6. Abatement.

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 in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by certified 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. The notice shall also specify that the owner or occupant upon whom the notice is served may request, in writing to the Town Clerk, a hearing before the Town Board of Supervisors. Such hearing must be requested before the deadline for abatement stated in the notice or within ten (10) after service of notice, whichever date is longer. If the notice is served by posting, thirty (30) days must elapse between the day of posting and the deadline for abatement. If the notice is not complied with within the time specified, and a hearing has not been requested, the enforcing officer shall take immediate steps to abate the nuisance. If a hearing has been requested, such action may not take place until after the hearing and the Town Board of Supervisors has rendered its decision.

Whenever a situation exists that immediately endangers the lives or health of the public, and under which the above notification procedures would be impractical, the enforcing officer may take immediate steps to abate the nuisance, and such action shall be immediately reported to the Town Board of Supervisors.

Section 7. Recovery of Costs.

- 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 administrative costs and attorneys' fees. As soon as the work has been completed and the cost determined, the Town Clerk 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 Town Clerk.
- b. Assessment. On or before October 1 following abatement of a nuisance by the Town, the Town Clerk shall list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed against each separate lot or parcel to which the nuisance abatement charges are attributable. The Town Board of Supervisors may then spread the charges against such property for certification to the County Auditor for collection by the County Treasurer and paid to the Town as other taxes are collected and paid.

Section 8. Penalty.

Any person who violates any provision of this Ordinance is guilty of a misdemeanor and shall be punished by a fine or imprisonment, or both, not to exceed the maximum allowed by state law. Every day that the offense occurs shall be deemed a separate violation of this Ordinance.

A violation of this Ordinance may be enforced by criminal prosecution, injunction, action to compel performance, restoration, abatement, or other appropriate action.

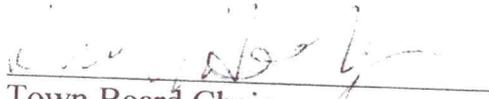
Section 9. Separability and Repealer.

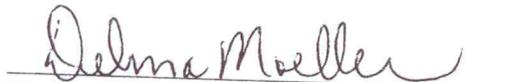
All ordinances or portions of ordinances conflicting herewith are hereby repealed. Should any section of this Ordinance be held unconstitutional or void, the remaining provisions shall remain in full force and effect.

Section 10. Effective Date.

This Ordinance becomes effective immediately upon its passage and publication according to law.

Approved this 7 day of March, 2005.


Town Board Chair


Town Clerk



Drafted By:
Township Board of Supervisors
✓ Lynden Township
20979 Co. Rd. 44
Clearwater, MN 55320