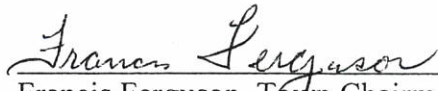


AMENDMENT OF TOWN OF BYRON
ORDINANCE PROHIBITING PUBLIC NUISANCES

WHEREAS, the Town Board of the Town of Byron deems it in the public interest and welfare and a proper exercise of the Town's police powers under Section 60.22 of the Wisconsin Statutes, to regulate and prohibit public nuisances arising from uncontrolled access to outdoor swimming pools;

NOW, THEREFORE, the Town Board of the Town of Byron, Fond du Lac County, does hereby ordain that Section 2(2)(h) of the Town's Ordinance Prohibiting Public Nuisances is hereby created to identify certain property conditions as nuisances, as follows:

- (h) Any swimming pool lacking adequate restrictions upon access thereto or means of escape therefrom. The following conditions are deemed inadequate to these purposes:
 - (i) Any in ground swimming pool that is not completely surrounded by a fence of no less than 6 feet in height, containing a lockable gate and constructed in a manner which prevents children from passing under or through the gate and fence.
 - (ii) Any above ground swimming pool of permanent construction that does not have a lockable gated approach to the pool or to any deck that is adjacent to the pool.
 - (iii) Any in ground swimming pool that is equipped with ladders to enter the pool which ladders are not removable and in fact removed when neither the pool nor the outdoor area within 20 feet of the pool is occupied by a competent adult. This subparagraph shall not apply to any ladder, the access to which is restricted by a fence which complies with subparagraph (i) above.
 - (iv) Any pool of more than 3 feet in water depth that is not equipped with a submerged ladder or steps which can be used for climbing out of the pool water.
 - (v) Any pool that is not drained, removed or dismantled when the property on which it is located is not inhabited for a period of 1 month or more.


Francis Ferguson, Town Chairman

Attest:


Gloria Kelroy, Town Clerk

Adopted this 8th day of November, 2005 and published this 21st day of November, 2005.

**TOWN OF BYRON
FOND DU LAC COUNTY, WISCONSIN**

ORDINANCE PROHIBITING PUBLIC NUISANCES

WHEREAS, the Town Board of the Town of Byron deems it in the public interest and welfare to establish regulations prohibiting public nuisances as defined herein; and

WHEREAS, the Town finds it necessary to exercise its police powers as authorized by sec. 60.22 of the Wisconsin Statutes;

NOW, THEREFORE, the Town Board of the Town of Byron, Fond du Lac County, Wisconsin, does ordain as follows:

SECTION 1. APPLICABILITY

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Byron.

SECTION 2. DEFINITIONS

- (1) Public Nuisance-General. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to: (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public; (b) In any way render the public insecure in life or in the use of property; (c) Greatly offend the public morals or decency; (d) Unlawfully and substantially interfere with, 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; or (e) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.
- (2) Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of sub. (1) of this section:
- (a) All decayed, harmfully adulterated or unwholesome food/food byproducts or drink sold or offered for sale to the public.
 - (b) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

- (c) All domestic animals running at large, including, without limitation, dogs, cats, horses, llamas, and all other types of domestic pets.
- (d) The escape of soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
- (e) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (f) Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stench, liquids or substances offensive to the physical senses to an ordinary person possessed of ordinary tastes and susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of persons within the Town. This definition shall not apply to odors produced through the operation of farming practices.
- (g) All abandoned wells not securely covered or secured from public use.
- (h) Disassembled, dismantled, partially dismantled, inoperable, junked, wrecked, or unlicensed motor vehicles, truck bodies, tractors, trailers, boats, or campers in such state of physical or mechanical ruin as to be incapable of propulsion or of being operated upon the public streets, highways, or waters.
- (i) Abandoned, discarded or unused objects or equipment such as industrial equipment, farm machinery, furniture, stoves, refrigerators, freezers, cans, containers, lumber, trash, debris, or yard waste.
- (j) Any dwelling or building that has any or all of the following defects:
 - (i) any dwelling or building whose walls or vertical members list, lean or buckle to such an extent that a plumb line suspended from the top edge of such member shall fall outside of a distance from the edge equal to $\frac{1}{3}$ of the thickness of such members;
 - (ii) any dwelling or building which has support member or members which have deteriorated to such an extent as to be unable to safely support the applied loads or which have forty (40%) percent damage or deterioration of the non-supporting, enclosed or outside walls or covering;

- (iii) any dwelling or building which has been damaged by fire, wind or other causes so as to become dangerous to life, safety, morals or the general health and welfare of the occupants;
- (iv) any dwelling or building which has parts thereof which are so attached that they may fall and injure persons or property;
- (v) any dwelling or building which does not have an unobstructed means of egress leading to an open space at ground level;
- (vi) any dwelling or building which has wiring that is dangerous due to lack of insulation, improper fuses, inadequate grounding, lack of capacity of wires or other dangerous conditions;
- (vii) any dwelling or building which does not have an installed kitchen sink in each dwelling unit properly connected to the hot and cold water supply pipes and the sewer system;
- (viii) any dwelling or building which does not have an installed tub or shower and lavatory in each dwelling unit properly connected to hot and cold water supply pipes and the sewer system;
- (ix) any dwelling or building which does not have a flush type water closet in each dwelling unit located in a room affording privacy and properly connected to the water supply pipes and sewer system;
- (x) any dwelling or building which does not have installed electric lighting facilities consisting of at least two separate wall-type convenience outlets or one ceiling-type fixture and one wall-type outlet for every habitable room installed in accordance with the electrical code;
- (xi) any dwelling or building which does not have either central heating, fireproof flues or fireproof vents serving each dwelling unit. All heating equipment whether installed by owner or occupant must be vented and maintained in good order and repair.

(3) Public Nuisances-Intoxicating Liquor. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license or contrary to an existing permit or license, are deemed a public nuisance.

(4) Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of sub. (1) of this section: Agriculturally-related farm activities are exempt from the definition of public nuisances contained in this subsection 2 (4).

(a) All loud, discordant and unnecessary noises or vibrations of any kind. This definition shall not apply to noises made by agricultural vehicles, equipment, or machinery, regardless of the time of day or night.

(b) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall annoy or disturb neighbors or other residents of the Town. This definition shall not apply to noises made by farm animals.

(c) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.

(d) All open and unguarded pits, wells, or excavations and all unused, abandoned, or uninhabitable buildings or unused basements freely accessible from any public street, alley or sidewalk.

(e) Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a hazard (except when such items are properly housed and out of public view).

(f) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(g) All items enumerated in Section 2 (2), above.

SECTION 3. ABATEMENT OF PUBLIC NUISANCES

- (1) Inspection of Premises. Whenever a complaint is made to a member of the Town Board that a public nuisance exists within the Town, the Town Board shall inspect or cause to be inspected the premises complained of. However, no entry upon the premises shall be required.
- (2) Notice to Owner. If the Town Board determines that a public nuisance exists within the Town, it shall provide notice to the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises where such nuisance exists. The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove such nuisance within three (3) days. The notice shall also state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (3) 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 Town shall cause the abatement or removal of such public nuisance.
- (4) Abatement by Court Action. If the Town shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, the Town may cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Fond du Lac County.
- (5) Other Methods Not Excluded. Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

SECTION 4. COST 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 abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

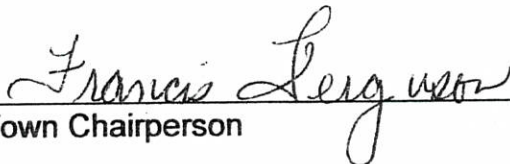
SECTION 5. PENALTIES

Any person who violates any provision of this ordinance or any order, rule or regulation made hereunder shall, upon conviction, be fined not less than \$50.00, nor more than \$500.00 for each offense, together with the costs of prosecution, including reasonable attorneys' fees. Each day that a violation continues shall be considered a separate offense. Furthermore, the Town shall be permitted to withhold the issuance of licenses, authorities, grants or permits until the nuisance has been abated and all penalties and costs satisfied.

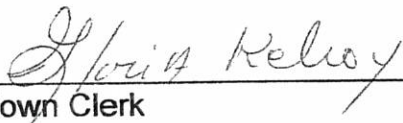
SECTION 6. INTERPRETATION AND SEVERABILITY

(1) Interpretation. The provisions of this ordinance are not intended to supersede or modify provisions of existing Zoning Ordinances or other rules, regulations and ordinances adopted by the Town. Where the provisions of this ordinance impose greater restrictions than any statute, ordinance or covenant, the provisions of this ordinance shall prevail. Where the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance or covenant shall prevail.

(2) Severability. It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by a Court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be invalid.


Town Chairperson

Attest:


Town Clerk

Adopted this 12th day of November, 2002

Published this 18th day of November, 2002

THE REPORTER

www.fdlreporter.com

AFFIDAVIT OF PUBLICATION

Legal No. 541
Ad No. 1087026
Case No. 208281 ST PETER LAW

ATTN:

TOWN OF BYRON ORDINANCE PROHIBITING PUBLIC NUISANCES

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(v) Any pool that is not drained, removed or dismantled when the property on which it is located is not inhabited for a period of one month or more.

Francis Ferguson,
Town Chairman
Attest: Gloria Kelroy
Town Clerk

Adopted this 8th day of November, 2005 and published this 21st day of November, 2005. (541)

STATE OF WISCONSIN, } ss.
Fond du Lac County, }

Jessica Duehring being duly sworn, says that she is the foreman of the publisher of The Reporter, a daily newspaper published in the city of Fond du Lac, in said county, and that a notice, of which annexed is a printed copy taken from said paper, has been published in said newspaper as follows:

NOVEMBER 21

Subscribed and sworn to before me this 21 day of

NOVEMBER

, A.D. 2005.

Melissa J. Bushner

Notary Public, Fond du Lac, Wisconsin

Printer's Fees: \$61.14

State of Wisconsin Fond du Lac County

Court

Proof of Publication Notice

Notary Public
State of Wisconsin
My Commission Expires Sept. 6, 2009

Affidavits

