

ORDINANCE NO. 51

An Ordinance Creating a Public
Nuisance Ordinance for the Village of Marquette

The Village Board of the Village of Marquette in session duly begun on the 11th day of June, 2007, does ordain as follows:

SECTION 1: PUBLIC NUISANCES PROHIBITED.

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

SECTION 2: PUBLIC NUISANCE DEFINED.

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.
- (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.

SECTION 3: 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 Section 2:

- (a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (b) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death. Hides or pelts if properly preserved, salted or maintained, as to not give off odor or draw vermin or insects, may be an exception.
- (c) **Breeding Places for Vermin, etc.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, brush piles,

grass piles, leaf piles, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

- (d) **Stagnant Water.** All stagnant water in which mosquitoes, flies, or other insects can multiply.
- (e) **Garbage Cans.** Garbage cans which are not fly-tight.
- (f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.
- (g) **Water Pollution.** 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.
- (h) **Noxious Odors, etc.** Any use of property, substances or things within the Village or within four (4) miles thereof, emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- (i) **Street Pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- (j) **Animals at Large.** All animals running at large.
- (k) **Accumulation of Refuse/Junk.** Accumulations of old cans, lumber, elm firewood, accumulation of trash, rubbish and other refuse. Any junk, abandoned vehicles, or machinery or parts thereof, white good or 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).
- (l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village limits or within one (1) 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 Village.
- (m) **Motor Vehicles.** Disassembled, dismantled, partially dismantled, inoperable, junked, wrecked, or unlicensed motor vehicles, truck bodies, tractors, trailers, boats, or campers, lawn mowers in such a state of physical or mechanical ruin as to be incapable of propulsion or of being operated upon the public streets, highways, private properties, or waters.

SECTION 4: **PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 2:

- (a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) **Gambling Devices.** All gambling devices and slot machines, except as permitted by state law.
- (c) **Unlicensed Sale of Liquor and Beer.** 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, in violation of the laws of the State of Wisconsin or the ordinances of the Village.
- (d) **Continuous Violation of Village Ordinance.** Any place or premises within the Village where Village Ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinance of the Village.

SECTION 5: **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 definition of Section 2:

- (a) **Signs, Billboards, etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the Village relating to materials and manner of construction of buildings and structures within the Village.
- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.

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Village shall enforce those provisions of this ordinance that come within the jurisdiction of their offices.

- (b) **Notice to Owner.** If the Village Board determines that a public nuisance exists with in the Village, 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 such nuisance or the occupant to abate or remove such nuisance within three (3) days. The notice shall also state that unless such nuisance is so abated, the Village shall cause the same to be abated and will charge the cost hereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (c) **Abatement by Village.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Village shall cause the abatement or removal of such public nuisance.
- (d) **Abatement by Court Action.** If the Village 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 Village may cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Green Lake County.
- (e) **Other Methods Not Excluded.** Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.

SECTION 7:

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 Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

SECTION 8:

PENALTY PROVISION.

Any person who shall violate any provision of this Ordinance, upon conviction, shall forfeit not less than \$50.00 nor more than \$500.00 together with the cost of prosecution, including reasonable attorney's fees and all other costs incurred by the Village and any costs of abatement as described in Section 7 above. Each violation and each day of a violation continues or occurs shall constitute as a separate offense. Furthermore, the Village 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 9:

INTERPRETATION AND SEVERABILITY

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

9.2 Severability. If any section, provision, phrase, word or any portion of this ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section, word, phrase, provision or portion thereof directly specified in the decision, and not affect the validity of all other provision, words, sections or portions thereof of the ordinance which shall remain in full force and effect.

SECTION 10:

This ordinance shall take effect from and after its passage and publication as required by law.

ROLL CALL: Ayes: 3 Nays: 0 Absent: 0 Abstain: 0

Passed and adopted this 11th day of June, 2007.

Attest:

Deborah J. Flagel
Deborah J. Flagel, Clerk

APPROVED AS TO FORM

Village Attorney

Posted: 6-12-07

Effective: 6-12-07

VILLAGE OF MARQUETTE

John L. Ouellette
John L. Ouellette, President

Jason A. Winchell
Jason A. Winchell, Trustee

Ronald C. Flagel
Ronald C. Flagel, Trustee