

ATTRACTIVE NUISANCE ORDINANCE

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PREAMBLE

The Town of La Pointe believes the protection of children, young people and all citizens is of great import. The Town is committed to ensuring that private property, construction and/or building sites, by virtue of their location, orientation and/or proximity to schools, playgrounds or any area that children, young people and citizens may gather or congregate, are secured and made safe from potential accident or injury to those attracted to the site(s) by virtue of youth, inquisitiveness or childhood adventure-seeking.

1.1 TITLE AND PURPOSE

The title of this ordinance is the Town of La Pointe Attractive Nuisance Ordinance. The purpose of this ordinance is to regulate for public health and safety reasons attractive nuisances and certain uses and activities in the Town.

1.2 AUTHORITY

The Town Board has the specific authority under ss. 29.038, 66.0407, 66.0413, 125.14, 169.01, and 175.25, and chapter 823, Wis. Stats., and general authority under its village powers under s. 60.22, Wis. Stats., to adopt this ordinance.

1.3 ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the Town Board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the storage, treatment, disposal, and discharge of certain items, uses, and activities in the Town of La Pointe.

1.4 DEFINITIONS

The term “attractive nuisance” shall be construed to mean any artificial condition, whether in a building, on the premises of a building or upon an unoccupied job site, which by its nature, location or character would tend to attract and substantially endanger the safety of any minor person. This includes, but is not limited to, unsecured swimming pools, abandoned wells or shafts; excavations or uncompleted basements; abandoned refrigerators/freezers; any structurally unsound structures; or any condition which is determined to be a life safety violation.

1.5 ABATEMENT OF ATTRACTIVE NUISANCES/PERMIT REVOCATION

A. No person shall cause, allow or permit, on land owned by that person in the Town of La Pointe, the following:

- (1) Open cisterns
- (2) Open holding tanks
- (3) Open wells
- (4) Open cesspools
- (5) Unused or uncovered basements
- (6) Unenclosed excavations
- (7) Dangerous openings into caves or tunnels

All such physical structures and places shall be properly filled, tightly enclosed, properly covered or fully and securely fenced in such a manner to prevent injury to persons. Any cover, enclosure or fence shall be designed, constructed and maintained to prevent small children from accessing the structure or place.

B. No person shall cause, allow or maintain outside any habited building or structure or inside any uninhabited building or structure in a location accessible to small children, any abandoned, any unattended or discarded ice box, refrigerator, deep freezer or other container or equipment which has an air tight door or lid which may not be released from the inside without removing the door or lid or removing the lock from such container or equipment unless said person securely locks or fastens the door to prevent access by small children.

C. No person shall cause, allow or permit any excavation in the Town of La Pointe which, by virtue of its location, orientation and/or proximity to schools, playgrounds, recreational areas or any area that children, young people and citizens may gather or congregate, for any building purpose or other purpose, to be left open, unfenced or unsecured after work has ceased for the day, season or permanently. If said person, after receipt of notice to comply with the ordinance, fails to comply with this ordinance, the Town Board may order the fencing or making the site or excavation secure by said person within thirty (30) days after receipt by said person of the ~~by~~ order. If the site or excavation is not fenced or made secure, the Town Board may order the site or excavation fenced or made secure and charge the cost to said person against the real property of that person as a special tax.

1.6 COSTS OF ABATEMENT OR DISPOSAL

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance, or maintenance of a public nuisance and violation of this ordinance, the cost of abatement of any public nuisance by the Town may be collected under this ordinance or s. 823.06, Wis. stats., as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the Town to enjoin or abate the public nuisance as a special charge under s. 66.0627, Wis. stats., unless paid earlier. If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed in violation of this ordinance, the Town Board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under s. 66.0139, Wis. stats., by public auction or other means as determined in writing by the Town Board.

1.7 ENFORCEMENT PROVISIONS

No person shall have, keep, maintain, cause or permit an attractive nuisance condition on any parcel of land within the Town of La Pointe. Having, keeping, maintaining, causing, or permitting an attractive nuisance in violation of this section is hereby prohibited and declared to be a public nuisance.

A. ENFORCEMENT AUTHORITY. The Town representative as may be designated by the Town Board is hereby authorized to enforce this ordinance, and to issue citations for violations of this ordinance pursuant to applicable state statutes.

B. PENALTIES.

(1) 1st Offense. Any person who violates this ordinance shall, upon conviction, forfeit not less than \$20 nor more than \$500 together with the costs of prosecution

(2) Second and Subsequent Offenses; Penalty. Any person guilty of violating this ordinance or any person who has previously been convicted of a violation of this ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution.

C. SEPARATE VIOLATIONS. Each day of violation of this ordinance constitutes a separate offense.

1.8 SEVERABILITY

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

1.9 EFFECTIVE DATE

This Ordinance is effective on publication or posting.

Adopted this _____ day of _____, 2014.

Greg Nelson, Town Board Chair

James Patterson, Supervisor

Martin Curry, Supervisor

Hamilton Ross, Supervisor

Michael Childers, Supervisor

Attest: Micaela Montagne, Clerk