

ORDINANCE NO. 2011-03

ORDINANCE REPEALING AND/OR RECREATING SECTIONS OF CHAPTER 404 OF THE CODE OF THE TOWN OF BUCHANAN NUISANCES

The Town Board of the Town of Buchanan does hereby ordain as follows:

Sections 404-1(A), 404-3(G), 404-4(B-D), 404-5 and 404-6 of the Code of the Town of Buchanan are hereby repealed and recreated to read as set forth hereafter. Section 404-3(I) of the Code of the Town of Buchanan is hereby repealed.:

§404-1(A). Public nuisances prohibited.

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

- A. "Public nuisance" means a thing, act, occupation, condition, or use of property which shall continue for such length of time as to: do any of the following:
- (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 in the use of property.
 - (3) Greatly offend the public morals or decency.
 - (4) 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.

§ 404-3(G). Public nuisances affecting peace and safety.

- G. All buildings or structures, the contents of a building or structure, or any associated electrical, heat, water or sewer system located on public or private lands so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation.

§ 404-4(B-D). Abatement.

- B. Summary abatement. Summary abatement shall be executed as follows:
- (1) Notice to owner. If the inspecting officer shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals, or decency, the Town Administrator/Clerk shall serve a written order on the person causing,

permitting, or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted, or maintained. If immediate personal service cannot be made, a copy of the written notice shall be posted on the premises. Such notice shall direct the person causing, permitting, or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that, unless such nuisance is so abated, the Town may cause, due to emergency conditions, the nuisance to be abated and shall charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be. [Amended 8-17-2010 by Ord. No. 2010-03]

- (2) Abatement by Town. If the nuisance is not abated within the time period 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 by immediately seeking for the Town a court order that allows for the immediate enjoinder and abatement of the public nuisance.

C. Abatement by court action. If the inspecting officer shall determine that a public nuisance exists on public or private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals, or decency, he/she shall file a written report of findings with the Town Administrator/Clerk who shall take one or more of the following actions, as directed by the Town Board:

- (1) Issue and serve a written order to cease and desist the public nuisance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
- (2) Issue and serve a citation for violation of this ordinance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
- (3) Cause the Town Attorney to draft a formal civil complaint to be filed and served upon the alleged violator(s) for abatement of the public nuisance under Ch. 823, Wis. Stats.

D. Other methods not excluded. Nothing in this article shall be construed as prohibiting the injunction and abatement of public nuisances by the Town or its officials in accordance with the laws of the state.

§ 404-5. Cost of abatement.

In addition to any other penalty imposed by this article 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 article or § 823.06, Wis. Stats., as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the 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. If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed in violation of this article, the Town Board may proceed to dispose of this personal property under § 66.0139, Wis. Stats., by public auction or other means as determined in writing by the Town Board.

§ 404-6. Violations and penalties.

Any person who shall violate any provision of this article shall upon conviction, forfeit not less than \$20 nor more than \$500 together with the costs of prosecution for a first offense. Any person who shall violate provisions of this article for second and subsequent offenses, shall upon conviction, forfeit not less than \$100 nor more than \$1,000 for each offense, together with the costs of prosecution. A separate offense shall be deemed committed on each day on which a violation of any provision of this article occurs or continues.

Adopted this 21st day of June, 2011.

TOWN OF BUCHANAN:

Mark McAndrews
Town Chairperson

ATTEST:

Angela Gorall
Town Administrator/Clerk