

ORDINANCE NO. 2362

**AN ORDINANCE AMENDING CHAPTER 393, NUISANCES,
OF THE CODE OF THE VILLAGE OF WINNECONNE
TO REVISE ABATEMENT AND ENFORCEMENT PROCEDURES**

The Board of Trustees of the Village of Winneconne do ordain as follows:

Section 1. Section 393-2, Nuisance defined, is hereby amended to read as follows:

A. Public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (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.

B. Chronic nuisance premises is a premises that meets any of the following criteria:

- (1) Is a premises that has generated three (3) or more calls for police services that have resulted in arrest or the issuance of a citation for nuisance activities on three separate days within a one (1) year period. Three (3) or more calls for police services resulting in arrest or citation for nuisance activities include actions taken against any person associated with the premises while at or within 200 feet of the premises for a nuisance activity.
- (2) Is a premises that a Winnebago County court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the premises within thirty (30) days prior to the date of the search warrant application; or
- (3) Is a premises that has had one enforcement action associated with the premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes.

Section 2. Section 393-4, Public nuisances offending morals and decency, is hereby amended to add paragraphs F and G as follows:

- F. **Illegal Drug Houses.** Any building or structure that is used to facilitate the delivery, distribution, or manufacture of a controlled substance or a controlled substance analog and any building or structure where those acts take place.
- G. **Criminal Gang Houses.** Any building or structure that is used as a meeting place of a criminal gang, as defined in Wisconsin law, or that is used to facilitate the activities of a criminal gang.

Section 3. Section 393-6, Abatement of public nuisances, is hereby amended to read as follows:

A. **Responsibility for Enforcement.** It shall be the duty of each department head to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and each department head shall make or cause to be made periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the inspection officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied themselves that a nuisance does, in fact, exist.

B. **Summary Abatement.**

- (1) **Order of Abatement.** If the inspecting officer determines that a public nuisance exists within the Village and that there is imminent danger to public health, safety, peace, morals, or decency, the inspecting officer may, without notice or hearing, issue an order to the owner and post such order on the premises reciting the existence of a public nuisance constituting an imminent danger to the public and requiring immediate action be taken as the inspecting officer deems necessary to abate the nuisance. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately by addressing the imminent danger or advising the inspecting officers of the steps taken to address the imminent danger as soon as possible.
- (2) **Abatement by Village.** Whenever the owner or occupant shall refuse or neglect to remove or abate the condition described in the order, the inspecting officer shall, in his discretion, enter upon the premises and cause the nuisance to be removed or abated, and the Village shall recover the expenses incurred thereby from the owner of the premises or from the person who has caused or permitted the nuisance.

C. **Non-Summary Abatement.**

- (1) **Order to abate nuisance.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, the inspecting officer shall issue an order reciting the existence of a public nuisance and requiring the owner or occupant of the premises to remove

or abate the condition described in the order within the time period specified therein, which shall be no shorter than thirty (30) days. The order shall be served personally on the owner of the building, as well as the occupant if different from the owner and applicable to the described nuisance, or, at the option of the inspecting officer, the notice may be mailed to the last known address of the person, to be served by certified mail with return receipt. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a Class 3 notice under W.S.A. Chapter 985 of the Wisconsin Statutes. The time limit specified in the order runs from the date of service or publication.

- (2) Abatement by Village. If the owner or occupant fails or refuses to comply within the period prescribed, such owner may be subject to a penalty as provided in § 1-3 of this Code. Further, the inspecting officer may obtain an administrative warrant/order to enter upon the premises and cause the nuisance to be removed or abated and the Village may recover the expenses incurred thereby from the owner or the occupant of the premises or from the person who has caused or permitted the nuisance.
- (3) Remedy from order. Any person affected by such order may, within 30 days of service or publication of the order, apply to the Circuit Court for an order restraining the Village, its agents, and employees from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine if the Village has met its burden of proving the reasonableness of the order for abatement of the nuisance.

D. Chronic Nuisance Premises.

- (1) Findings. The Village of Winneconne Board of Trustees finds that certain premises within the Village receive and require more than the general, acceptable level of Village Police and administrative services, place an undue and inappropriate burden on Village taxpayers, and constitute public nuisances. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. The vast majority of properties with chronic nuisance activity are non-owner occupied. This sub-section is enacted to encourage premises owners to recognize their responsibility to ensure that activities occurring on their premises conform to the law and do not unduly burden the Village's Police and administrative services and to provide a mechanism for the Village to take action against premises owners who fail to ensure premises they own do not unduly burden Village services. The Village Board determines that the Village will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This section does not affect a premises owner's duty to comply with Fair

Housing Laws or a premises owner's duty to comply with all other laws governing residential tenancies.

- (2) Determination of chronic nuisance.
 - (a) In reaching a determination that a premises is a chronic nuisance premises, activities that were reported to the Village Police or appropriate Village official by the premises owner or on-site premises manager shall not be included as nuisance activities.
 - (b) In reaching a determination that a premises is a chronic nuisance premises, activities that are "domestic abuse" incidents pursuant to Wisconsin Statutes shall not be included as nuisance activities unless the incidents have been reviewed by the Chief of Police and the Village Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed nuisance activities under this Chapter. In determining whether to include such activities, the Chief of Police and Village Attorney shall consider the strong public policy in favor of domestic abuse victims reporting alleged abuses, and this section shall not operate to discourage such reports.
- (3) Procedure. Upon finding that a premises meets the definition of a chronic nuisance premises, the Chief of Police or designated Village official may declare the premises a chronic nuisance premises. The Chief of Police or designated Village official shall provide written notice of their determination to the premises owner identified by the Village Assessor's records for that premises. The chronic nuisance premises notice ("CNP notice") shall be deemed delivered if sent either by first-class mail to the premises owner's last known address as identified by the records of the Village Assessor or by personal service pursuant to Section 801.11, Wis. Stats. The CNP notice shall contain the following information:
 - (a) Street address, parcel number or a legal description sufficient to identify the premises.
 - (b) A concise statement, including a description of the relevant activities supporting the determination that the premises is a chronic nuisance premises.
 - (c) A statement that the owner shall immediately notify the Chief of Police or designated Village official of any change in address to ensure receipt of future notices.
 - (d) A statement that the cost of future enforcement may be assessed as a special charge against the premises.
 - (e) A statement that the owner shall, within 10 days of receipt of the CNP notice, respond to the Chief of Police or designated Village official either with an appeal or to propose a written course of action to abate the nuisance activities. The statement shall direct the premises owner to schedule a meeting with the Chief of Police and/or designated Village official to

discuss the nuisance activity and the premises owner's intent regarding abatement.

- (f) A statement that the premises owner shall, when appropriate, consider and implement alternatives to eviction when formulating an abatement plan.
 - (g) A statement that the premises owner shall at all times comply with the fair housing requirements when considering any action against a tenant based upon a CNP notice.
 - (h) A statement that the premises owner may be subject to a forfeiture action with a penalty of not less than \$1,000 nor more than \$5,000 for permitting a chronic nuisance premises.
 - (i) A statement that if the premises is a non-owner-occupied residential premises, the premises owner is encouraged to attend landlord training, where available.
- (4) Abatement plan. Any owner receiving a CNP notice pursuant to this section shall, unless other arrangements are agreed to in writing, meet with the Chief of Police within five (5) business days of receipt of such notice. The parties shall review the problems occurring at the property. Within ten (10) business days of this meeting, the owner shall submit to the Chief of Police a written abatement plan to end the public nuisance activity on the property. The plan shall also specify a name, address, and telephone number of a person living in the State of Wisconsin who can be contacted in the event of further police, fire or inspection contact. In the case of rental property, pursuing action under Ch. 704, Wis. Stats., may be part of the proposed plan, so long as such action is timely taken. The Chief of Police shall, within ten (10) business days of receipt of the written plan: accept the abatement plan as written and give the owner written notice of the same; or shall contact the owner to discuss necessary changes to the abatement plan. If the parties do not agree on an abatement plan within thirty (30) days of service of the CNP notice pursuant to this section, the Village may pursue any remedies available to it under law including citation and forfeiture.
- (5) Additional public nuisance activity.
- (a) Whenever the Chief of Police determines that additional public nuisance activity has occurred at a premises for which CNP notice has been issued pursuant to this section, that this public nuisance activity has occurred not less than fifteen (15) business days after notice has been issued, and that reasonable efforts have not been made to abate the public nuisance activity, the Chief of Police shall calculate the cost of police response and enforcement for this and any subsequent public nuisance activities and shall cause such charges and administrative costs to be assessed and collected as a special charge against the premises pursuant to § 66.0627(2), Wis. Stats.
 - (b) Additional public nuisance activity. If additional public nuisance activity occurs on a rental property subject to an abatement plan during the timely

implementation of the agreed upon abatement plan, the property owner shall not be subject to penalties described in this code.

- E. Other methods not excluded. Nothing in this chapter 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 4. Section 393-8, Enforcement; Penalty, is hereby amended to read as follows:

- A. Statutory Authority. The Village Board of the Village of Winneconne, pursuant to authority granted to local municipalities, hereby incorporates the provisions of Section 66.0413 and Chapter 823, Wisconsin Statutes as the same apply to the abatement of public nuisances.
- B. Inspection of premises. Whenever complaint is made to the Village Administrator that a public nuisance exists within the Village, the Village Administrator shall promptly notify the Chief of Police or other appropriate inspection authority who shall forthwith inspect or cause to be inspected the premises and shall make a written report which shall be submitted to the Village Administrator. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk-Treasurer.
- C. Enforcement. The Village Administrator, Chief of Police, Fire Inspector, Director of Public Works and Building Inspector shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under § 393-6 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.
- D. Penalty. Any person violating Section 393-6D of this Chapter shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for each offense. Any person who shall violate any other provision of this chapter shall be subject to a penalty as determined by Village Board. See § 1-3 of this Code.

Section 5. Any person violating the provisions of this Ordinance shall be subject to the penalty as provided therein.

Section 6. The appropriate Village officials are hereby authorized and directed to take such action as is necessary to effectuate the terms of this Ordinance.

Section 7. This Ordinance shall take effect and be in force upon its passage and publication as provided by law.

Adopted this 20th day of June, 2023

VILLAGE OF WINNECONNE



Chris Boucher, Village President

Attest: 
Ann Wasinger, Village Clerk