

Postponed  
Indefinitely  
11.20.14

**TOWN OF WINDSOR  
ORDINANCE NO. 2014-01**

**AN ORDINANCE REGARDING CHRONIC NUISANCE PREMISES**

**WHEREAS**, as set forth in the Findings portion of Sec. 34-280 of this Ordinance, the Windsor Town Board finds that certain premises within the Town receive and require more than the general, acceptable level of police services and Building Inspection services; and

**WHEREAS**, chronic nuisance calls place an undue and inappropriate burden on Town of Windsor taxpayers, and constitute public nuisances; and

**WHEREAS**, chronic nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods; and

**NOW, THEREFORE**, the Town Board of the Town of Windsor, Wisconsin, does ordain as follows:

**Chapter 34, Article IX of the Town of Windsor Code of Ordinances is created to read as follows:**

**ARTICLE IX CHRONIC NUISANCE PREMISES.**

**Sec. 34-280 Findings and Definitions.**

**Findings.**

Based on the Town Board's review of the monthly police reports and related information regarding public safety, deputy and inspection services, the Town Board finds that certain premises within the Town utilize a much greater than average portion of the Town's public safety and building inspection services.

The Town Board finds that chronic nuisance calls place an undue and inappropriate burden on Town of Windsor taxpayers, constitute public nuisances, contribute to the general decay of an affected neighborhood and negatively impact law-abiding residents in these neighborhoods.

According to independent investigation by Town staff, neighboring communities with similar experience have enacted ordinances focused on Chronic Nuisance Premises and have found that such ordinances have been helpful in addressing this issue. The Town Board finds that enacting a Chronic Nuisance Ordinance will encourage owners of such premises to take greater responsibility for ensuring that the activities occurring on the premises are in accordance with the law, and will require that owners participate in the exceptional costs for public safety and inspection services provided to the owner's premises. The Town Board also finds that this ordinance promotes greater equity in the distribution of the costs for such services, and provides a mechanism for the Town to take action against premises owners who fail to ensure that the premises they own do not require a disproportionate level of public safety, deputy and inspection services. The Town Board also finds that this ordinance provides a method that can be used in a

progressive manner when working with property owners to abate nuisance activities occurring on their premises.

Based on these findings, and as set forth in this Article IX Chronic Nuisance Premises, the Town Board has determined that the Town will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities occur on a chronic basis, all as set forth herein.

This ordinance is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This ordinance does not affect a premises' owner from the owner's ongoing duty to comply with all other laws governing residential tenancies which are contained in Chapter 704 of the Wisconsin Statutes, Chapter ATCP 134 of the Wisconsin Administrative Code, or other applicable law.

### **Definitions.**

The following terms shall be defined as follows in this Article IX.:

1. **Deputy.** A law enforcement officer acting on behalf of the Town, including Dane County Sheriff's Deputy or his or her designee.
2. **Chronic Nuisance Premises.**
  - a. Is a premises which has generated three or more calls for police services that have resulted in enforcement action for nuisance activities on three separate occasions within a ninety-day period. Three or more calls for police services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the premises while at or within two hundred (200) feet of the premises for a nuisance activity; or
  - b. Is a single-owner building with two to four dwelling units which has generated four or more calls for police services that have resulted in enforcement action for nuisance activities on four separate occasions within a ninety-day period. Four or more calls for police services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the building while at or within two hundred (200) feet of the building for a nuisance activity; or
  - c. Is a single-owner building or single-owner building complex with five or more dwelling units which has generated six or more calls for police services that have resulted in enforcement action for nuisance activities on six separate occasions within a ninety-day period. Six or more calls for police services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the building while at or within two hundred (200) feet of the building for a nuisance activity; or
  - d. Is a premises for which a court of law has determined that, pursuant to a search warrant requested, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the premises; or
  - e. Is a premise which has one enforcement action associated with the premise resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961, Wisconsin Statutes.

- f. Any building or structure that is used as a meeting place of a criminal gang or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under this section.
3. **Criminal Gang.** An ongoing organization, association or group of three or more persons, whether formal or informal, that has as one of its primary activities the commission of one or more of the criminal acts or acts that would be criminal if the actor were an adult, specified in Section 939.22(21)(a) through (u), Wisconsin Statutes; that has a common name or a common identifying sign or symbol; and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.
  4. **Enforcement Action.** Arrest, the issuance of a citation or the issuance of a verbal or written warning.
  5. **Nuisance Activity.** Any of the following activities, behaviors or conduct occurring on a premises:
    - a. An act of Harassment, as defined in Section 947.013, Wisconsin Statutes.
    - b. Disorderly Conduct, as defined in Section 947.01, Wisconsin Statutes.
    - c. Crimes of Violence as defined in Chapter 940, Wisconsin Statutes.
    - d. Lewd and Lascivious Behavior, as defined in Section 944.20, Wisconsin Statutes.
    - e. Prostitution, as defined in Section 944.30, Wisconsin Statutes; Keeping a Place of Prostitution, as defined in Section 944.34, Wisconsin Statutes; Soliciting Prostitution, as defined in Section 944.32, Wisconsin Statutes; Patronizing Prostitutes, as defined in Section 944.31, Wisconsin Statutes; and Pandering as defined in Section 944.33, Wisconsin Statutes.
    - f. Theft, as defined in Section 943.20, Wisconsin Statutes.
    - g. Receiving Stolen Property, as defined in Section 943.34, Wisconsin Statutes.
    - h. Arson, as defined in Section 943.02, Wisconsin Statutes.
    - i. Possession, Manufacture or Delivery of a Controlled Substance or related offenses, as defined in Chapter 961, Wisconsin Statutes.
    - j. Gambling, as defined in Section 945.02, Wisconsin Statutes.
    - k. Animal violations, as defined in Chapter 8, Windsor Municipal Code.
    - l. Trespassing, as defined in Sections 943.13 and 943.14, Wisconsin Statutes.
    - m. Weapons violations and crimes involving illegal possession of firearms as defined in Sections 941.23, 941.26, 941.28, 941.29 and 948.60, Wisconsin Statutes.
    - n. Noise violations, as defined in Section 34-200, Windsor Municipal Code.
    - o. Any conspiracy to commit, as defined in Section 939.31, Wisconsin Statutes, or attempt to commit, as defined in Section 939.32, Wisconsin Statutes, any of the activities, behaviors or conduct enumerated in subsections 5.a. through n. above.
    - p. Damage to property as defined in Section 943.01, Wisconsin Statutes.
    - q. Alcohol violations as defined in Section 6-215, 6-243 and 6-246, Windsor Municipal Code and Chapter 125, Wisconsin Statutes.
    - r. Fireworks as defined in Section 24-141 to 24-143, Windsor Municipal Code.
  6. **Owner.** The owner of the premises or his or her agents.
  7. **Person Associated With.** Any person who, whenever engaged in a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without

limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a premises.

8. **Premises.** An individual dwelling unit or an individual business premises and areas associated with such unit or premises.

**Sec. 34-281. Notice.**

Whenever the deputy determines that three or more nuisance activities resulting in enforcement action have occurred at a premise on separate days during a ninety-day period, the deputy may notify the premises owner in writing. In reaching this determination, the deputy shall not count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises and a notice as to the appeal rights of the owner. The notice shall be delivered pursuant to Section 34-231(a), Windsor Municipal Code.

**Sec. 34-282. Additional Nuisance Activity; Special Charges; Forfeitures.**

Whenever the deputy determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Section 34-281, Windsor Municipal Code, that this nuisance activity has occurred in not less than fifteen (15) days nor more than one hundred eighty (180) days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the deputy may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge, except as limited by Sec. 34-283 below.

In the alternative to calculation of all actual related costs, the deputy may issue a citation for a Town Ordinance violation under this Sec. 34-282. As of the date of adoption of this ordinance, the forfeiture amount for the violation shall be as follows:

Notice Under Sec. 34-281	No forfeiture
1 <sup>st</sup> Violation Under Sec. 34-282	No less than \$150.00 and no more than \$250.00
2 <sup>nd</sup> Violation Under Sec. 34-282	No less than \$250.00 and no more than \$350.00
3 <sup>rd</sup> and subsequent Violations	No less than \$350.00 and no more than \$2000.00

In addition to the forfeiture or deposit amount, court costs shall be assessed in accordance with the State of Wisconsin Deposit Schedule adopted by the Wisconsin Judicial Conference. From January 1, 2016 forward, the forfeiture or deposit amount may be included and thereby established by resolution of the Town Board, as part of the Town Deposit and Fee Schedule.

The Town may pursue collection of the forfeiture and court costs through all legal means, including use of a collection agency, and may cause such forfeiture to be a special charge, except as limited by Sec. 34-283 below.

**Sec. 34-283. Limitation as to Special Charges for Certain Fees**

Notwithstanding any other provision in this Article IX. Chronic Nuisance Premise, and as required by Wis. Stat. § 66.027(7), neither the Town nor its deputies may impose a fee under the Chronic Nuisance ordinance on the owner or occupant of property for a call for assistance that is

made by the owner or occupant requesting law enforcement services that relate to any of the following:

- (a) Domestic abuse, as defined in s. 813.12 (1) (am).
- (b) Sexual assault, as described under ss. 940.225, 948.02, and 948.025.
- (c) Stalking, as described in s. 940.32.

**Sec. 34-284. Appeal**

Appeal of the determination of the deputy pursuant to either Section 34-281 or Section 34-282, Windsor Municipal Code, may be submitted to the Windsor Town Board for determination. Chapter 68, Wisconsin Statutes, shall not apply to such an appeal.

**Effective Date.** This ordinance shall take effect upon passage and publication as provided by law.

The above and foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Windsor on the 17<sup>th</sup> day of April, 2014.

**TOWN OF WINDSOR**

\_\_\_\_\_  
Robert E. Wipperfurth, Town Chairperson

\_\_\_\_\_  
Donald G. Madelung, Town Supervisor

\_\_\_\_\_  
Bruce Stravinski, Town Supervisor

\_\_\_\_\_  
Alan Buchner, Town Supervisor

\_\_\_\_\_  
Monica M. Smith, Town Supervisor

Attest:

\_\_\_\_\_  
Christine Capstrán  
Clerk

11.20.14  
Postponed  
Indefinitely

