

**ORDINANCE NO. 44-23**

**PRINCIPAL SPONSOR: ALDERPERSON JAN MICHALSKI**  
**CO-SPONSORS: ALDERPERSON ROLLIN PIZZALA**  
**ALDERPERSON BILL SIEL**

**ORDINANCE REPEALING SECTION 9.27 OF THE CODE OF  
GENERAL ORDINANCES FOR THE CITY OF KENOSHA,  
AMENDING SECTIONS 13.12.A., 15.15.D.5., 16.02, AND 16.26, AND  
ENACTING SECTIONS 7.126.F.14. AND 16.252 REGARDING PUBLIC  
NUISANCES AND THE AUTHORITY OF THE DEPARTMENT OF  
CITY INSPECTIONS**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

**Section One:** Section 7.126.F.14. of the Code of General Ordinances for the City of Kenosha is

hereby enacted as follows:

**Enforcement Authority.** In addition to the Police Department, the Department of City Inspections has the authority to enforce this Section 7.126. Notwithstanding the foregoing, pursuant to Section 7.126.F.1., the Department of City Inspections may request that the Police Department tow and store Nuisance Motor Vehicles, but the Department of City Inspections may not tow and store them itself. Following such a request from the Department of City Inspections, the Police Department will tow and store said Nuisance Motor Vehicles.

**Section Two:** Section 9.27 of the Code of General Ordinances for the City of Kenosha

is hereby repealed.

**Section Three:** Section 13.12.A. of the Code of General Ordinances for the City of Kenosha is

hereby amended as follows:

Further, the convenience of the City requires that disabled City vehicles be towed promptly upon request for a reasonable fee. Such service shall be known as "Class III Tows."

**Section Four:** Section 15.15.D.5. of the Code of General Ordinances for the City of Kenosha

is hereby amended as follows:

The Sign may continue in use as long as it is not abandoned or discontinued. A Sign is deemed destroyed when it is rendered any or all of the following descriptions: dismantled, removed or modified from its original state. A Sign is deemed abandoned or discontinued if for a period of ninety (90) days or longer, it is composed of obsolete advertising matter, or is without advertising matter, or is in need of substantial repair provided that any period of involuntary discontinuance which occurs during the period a street is closed shall not be considered. A Sign is deemed abandoned or discontinued if the name of the owner

does not appear thereon and if the name and address of the current owner is not readily ascertainable from records on file with the Department of City Development.

**Section Five:** Section 16.02 of the Code of General Ordinances for the City of Kenosha is hereby amended as follows:

**Weeds** mean any plants prohibited in either all of Wisconsin or in Kenosha County by Wisconsin Administrative Code § NR (Natural Resources) 40.04(2)(b), the term also includes any noxious weed under Wisconsin Statute § 66.0407 or Section 5.117 of the Code of General Ordinances.

**Section Six:** Section 16.252 of the Code of General Ordinances for the City of Kenosha is hereby enacted as follows:

#### **16.252 – Public Nuisances.**

**A. Definitions.** In this Section 16.252 (Public Nuisances), the following terms have the following meanings.

**Commence.** “Commence(s)” has the meaning set forth in Wisconsin Statute § 801.02.

**Department.** “Department(s)” means the Department of City Inspections, and includes all of its officers, and employees.

**Effective Date.** The “Effective Date(s)” of any order given pursuant to Section 16.252.D.6. (Non-Summary Abatement), is seven (7) days after the date of delivery. Notwithstanding the foregoing sentence, the Effective Date of any order given pursuant to Section 16.252.D.6. (Non-Summary Abatement) to abate the specific Public Nuisances prohibited in Section 16.252.B.3. (Junk in the Front Yard) and 16.252.B.5. (Unburied Animal Carcass) is two (2) days after the date of delivery. In any contest, the Effective Date will serve as the date of violation.

**Enforcing Officer.** An “Enforcing Officer(s)” means either the Director of the Department, or a supervisor, inspector, or officer within the Department.

**Flytight.** “Flytight(s)” means completely inaccessible to flies and any other insects.

**Front or Side Yard.** A “Front or Side Yard(s)” means, with respect to a Premises with a Dwelling on it that abuts a single Highway, the portion of a Yard between the edge of the Highway nearest the Dwelling and the edge of the Dwelling furthest from the Highway; for clarity, this includes the portions of Yard on both the front and sides of the Dwelling. A “Front or Side Yard” means, with respect to a Premises with a Dwelling on it that abuts two or more Highways, the portions of a Yard between the edges of each Highway and the edges of the Dwelling nearest to the highways.

**Governmental Entity.** A “Governmental Entity(s)” means a Wisconsin city, town, village, or county, the State of Wisconsin, or the United States Federal Government, as well as any of their agencies, departments, offices, or other subdivisions.

**Highway.** The term “Highway(s)” has the meaning in Wisconsin Statute § 340.01(22).

**Holiday.** The term “Holiday(s)” has the meaning in Wisconsin Statute § 801.15(1)(a).

**Junk.** “Junk” should be given its ordinary definition. Junk specifically includes, but is not limited to, refuse (meaning items or material that are practically useless or worthless; however, usefulness or worth to a scrapper or in recycling will not negate something fitting the definition of Junk), Garbage (meaning the definition contained in Section 16.02 of the Code of General Ordinances, with the modification that Garbage used for the purpose of composting, if the use is both reasonable and in compliance with the Code of General Ordinances, is not Junk), Debris (meaning the definition contained in Section 16.02 of the Code of General Ordinances with the additions of rubble, wreckage, or the scattered remains of anything else broken or destroyed), Bulky Solid Waste or Major Appliances (meaning the definitions contained in Section 5.06 of the Code of General Ordinances), or any other discarded or salvageable materials (with this phrase having the same meaning as it has in Wisconsin Statute § 289.03(33)). For clarity, this definition of Junk also includes, but is not limited to, cigarettes, inoperable refrigerators, inoperable freezers, scrap metal, inoperable radiators, inoperable washing machines, inoperable dryers, batteries, bottles, cans, feces from pet animals, and Vehicle parts or bodies. The definition of Junk is not limited to other applications similar to the lists contained herein. Junk may include Plant matter.

**Owner.** “Owner(s)” should be given its ordinary definition. The definition contained in Section 16.02 of the Code of General Ordinances does not apply to the term “owner(s)” in this Section 16.252 (Public Nuisances).

**Person.** A “Person(s)” refers to either a human being or an entity of any kind.

**Plant.** The term “Plant(s)” includes its common definition. For clarity, Plants include, but are not limited to, grass, Weeds, flowers, fruits, vegetables, trees, bushes, herbs, ferns, and mosses. A Plant also includes fungi, algae, and mold.

**Porch.** A “Porch(es)” is a covered platform at an entrance to a Building or Structure.

**Premises.** “Premises” refers both to land and any improvements upon it of any nature.

**Public Nuisance.** A “Public Nuisance(s)” is a condition or activity which substantially or unduly interferes with the use of a public place or with the activities of an entire community. In other words, a Public Nuisance is an unreasonable interference with a right common to the general public. The Common Council for the City of Kenosha intends for this general definition of a Public Nuisance to fully mirror the State of Wisconsin’s common law definition of a Public Nuisance, and for said definition to be interpreted in accordance with the State’s developing common law of Public Nuisances.

**Rodent or Insect Harborage.** A “Rodent or Insect Harborage(s)” means any Buildings, Structures, items, or anything else that provides, or tends to provide, rodents or insects refuge from frequent molestation or disturbance. Examples include (1) an outdoor trash or recycling container that has holes in the container material, an open or improperly closed lid, or that is otherwise accessible to rodents or insects, or (2) deteriorated Buildings or Structures with access points for rodents or insects; however, the definition of a Rodent or Insect Harborage is not limited to other

applications similar to these examples.

**Rodent-Proof Container.** A “Rodent-Proof Container(s)” is a container made of concrete or metal, or that is either lined with or made of other material that is impervious to rodents; openings into such a container are made of the same and are tightfitting to prevent the entrance of rodents.

**Sign.** The term “Sign(s)” has the meaning given in Section 15.02 of the Code of General Ordinances.

**Vehicle.** The term “Vehicle(s)” has the meaning given in Wisconsin Statute § 340.01(74).

**B. Specific Public Nuisances Declared.** In addition to the definition of a Public Nuisance contained in Section 16.252.A. (Definitions), the following conditions or activities are declared to be Public Nuisances:

1. **Nuisance Weed.** The existence of a Weed in any outdoor area, unless it is a part of an approved natural lawn pursuant to Section 16.17.G. of the Code of General Ordinances.
2. **Unsafe Sign.** The existence of any Signs that are structurally unsound.
3. **Junk in the Front Yard.** Junk located in a Front or Side Yard of a Premises containing a house or apartment Building, but that is neither surrounded by a fence nor on a Porch. The foregoing sentence does not prohibit (1) Junk placed in compliance with Section 5.06 of the Code of General Ordinances, (2) Junk stored outdoors in a completely enclosed, Flytight, waterproof, and Rodent-Proof Container, or (3) the storage of construction materials in compliance with Section 16.17 of the Code of General Ordinances.
4. **Junk in an Outdoor Area.** Junk in any outdoor area other than which is described by the first sentence of Section 16.252.B.3. (Junk in the Front Yard). The foregoing sentence does not prohibit (1) Junk placed in compliance with Section 5.06 of the Code of General Ordinances, (2) Junk stored outdoors in a completely enclosed, Flytight, waterproof, and Rodent-Proof Container, or (3) the storage of construction materials in compliance with Section 16.17 of the Code of General Ordinances.
5. **Unburied Animal Carcass.** The existence of an unburied carcass of an animal in an outdoor area, which is not intended for human consumption. The foregoing sentence will not apply on a farm, and furthermore will not prohibit maintaining deceased animals preserved through the practice of taxidermy or like forms of preservation.
6. **Pest Harborage.** The existence of any Rodent or Insect Harborage.
7. **Blighted Building.** (1) A Building or Structure that is old, dilapidated, or out of repair and consequently dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, or (2) a Building or Structure that has deteriorated or is dilapidated or blighted to the extent that one or more windows, doors, other openings, walls, roofs, plumbing or heating fixtures, or facilities or appurtenances of the Building or Structure are damaged, destroyed or removed so that the Building or Structure offends the aesthetic character of the immediate neighborhood and produces blight or deterioration.

8. **Foul Water.** Any outdoor excavation, pit, hole, gully, ditch, swimming pool, hot tub, fountain, or depression of any nature, whether natural or made by humans and whether in the ground or on top of it, where standing water has become foul, putrid, offensive, or an attraction for rodents, insects, arachnids, or other pests. The foregoing sentence will not bar such an excavation, pit, hole, gully, ditch, or depression located in any lake, river, creek, natural wetlands, lakes, ponds, lagoons where such lagoon is located on an approved subdivision plat, or any storm water ditch or water retention basin located on public or private property which are part of a City-approved Storm Water Drainage Plan or part of a statutory Drainage District.
- C. **Public Nuisance Violation.** No Person may create or maintain a Public Nuisance. Each day such a violation continues will be considered a separate offense.

**D. Abatement of Public Nuisances.**

1. **Orders.** An order pursuant to this Section 16.252.D. (Abatement of Public Nuisances) must, at minimum, include a statement of the violation with reference to the applicable provisions of the Code of General Ordinances, contain an order to abate a Public Nuisance and a date by which it must be abated, the Effective Date and date of delivery (unless delivered as set forth in Section 16.09.C.1. of the Code of General Ordinances), notice of the property reclamation procedure if applicable, and notice of the contest process. Such an order must be in writing.
2. **Abatement Completion Notice.** An abatement completion notice must, at minimum, inform the addressee of an order that the Department has completed its abatement of a Public Nuisance, include the date of delivery (unless delivered as set forth in Section 16.09.C.1. of the Code of General Ordinances), and give notice of the property reclamation procedure if applicable.
3. **Property Removal Notice.** A property removal notice must, at minimum, inform its addressee of any personal property removed from the Premises containing a Public Nuisance by the Department, or by a Person authorized to abate a Public Nuisance by the Department, and inform the addressee that such property may be claimed for a period of thirty (30) days or it may be disposed of.
4. **Delivery of Orders, Abatement Completion Notices, and Property Removal Notices.**
  - a. Orders, abatement completion notices, and property removal notices may be delivered to their addressees by any of the methods approved in Section 16.09.C. of the Code of General Ordinances, or by any other means consistent with due process that are reasonably calculated under all the circumstances to apprise the addressee of the order, abatement completion notice, or property removal notice. Orders to abate the specific Public Nuisance prohibited by Section 16.252.B.3. (Junk in the Front Yard) or 16.252.B.5. (Unburied Animal Carcass) must be delivered (1) as set forth in Section 16.09.C.1. of the Code of General Ordinances, or (2) by both posting them in a conspicuous place on the Premises and in addition delivering them through any other lawful means. For clarity, an Enforcing Officer may effectuate delivery through another Person.
  - b. If an order or abatement completion notice is recorded with the register of deeds for Kenosha County, the order is considered to have been delivered, as of the date the order or

abatement completion notice is recorded, on any Person claiming an interest in either the real estate or a Building or Structure upon it, as a result of a conveyance from the owner of record unless the conveyance was recorded before the recording of the order. Delivery by this means is not required but is lawful if performed.

- c. The date of delivery for an order, abatement completion notice, and property removal notice is generally the date it was sent, given, posted, or published; however, if such was delivered pursuant to Section 16.09.C.1. of the Code of General Ordinances, the date of delivery is the date service was accomplished.
- d. Time calculations under this Section 16.252 (Public Nuisances) will be computed to exclude the date of delivery and include the whole last day of the period. Saturdays, Sundays, and Holidays will not count toward any time period running from the date of delivery of any order to abate the specific Public Nuisance prohibited by Section 16.252.B.3. (Junk in the Front Yard) or 16.252.B.5. (Unburied Animal Carcass); otherwise such days will count. Notwithstanding the foregoing, if the last day of any time period expires on a day the Kenosha County Clerk of Courts Office is closed, such time period is extended through the next day said Office is open.

**5. Summary Abatement.** If an Enforcing Officer determines that a Public Nuisance was created or is being maintained, and that it presents impending danger to the health, safety, and welfare of the public, the Enforcing Officer may proceed under this Section 16.252.D.5. (Summary Abatement).

- a. **Issuing an Order and Abatement Completion Notice.** The Enforcing Officer may deliver an order to a Person violating Section 16.252.C. (Public Nuisance Violation). If the Department abates a Public Nuisance pursuant to Section 16.252.D.5.b. (Abatement), and when such abatement is completed, the Enforcing Officer will deliver an abatement completion notice to the same Person an order was delivered to.
- b. **Abatement.** An order may require the abatement of the Public Nuisance by any time, even if the Public Nuisance must immediately be abated. If either (1) the order's addressee is required to, but fails to immediately abate the Public Nuisance, or (2) the Enforcing Officer reasonably exercises discretion to determine that the situation requires it, then the Department may immediately abate the Public Nuisance without further notice or holding a hearing prior to the abatement. For clarity, the Department may abate a Public Nuisance either itself or through any other available Governmental Entity, or by contract or other arrangement with a private Person. Also for clarity, the Department is authorized to enter the Premises containing the Public Nuisance for the purpose of abating the Public Nuisance, and such authority includes the ability to authorize other Persons to do the same.
- c. **Contests.** Each addressee of an order given pursuant to this Section 16.252.D.5. (Summary Abatement) must Commence an action pursuant to this Section 16.252.D.5.c. (Contests) in the Kenosha County Circuit Court to contest any matter related to said order, abatement, or abatement completion notice prior to the expiration of thirty (30) days of the date of delivery of the order, or any such claim will be forever barred. If an abatement completion notice is also delivered, the time to Commence an action is extended to thirty (30) days following the notice's date of delivery. If contested, the City will bear the burden of proof on the question of whether the addressee violated Section 16.252.C. (Public Nuisance

Violation). If the court determines that the Department improperly caused an abatement, the court may order any equitable remedy that is necessary to restore the affected Person to their pre-abatement state, if such an equitable remedy is reasonable, and any compensatory damages necessary to restore the affected Person to their pre-abatement state. Notwithstanding the foregoing sentence, the court must not award compensatory damages for any violations of the United States Constitution or Wisconsin Constitution. The court must not award punitive damages. The City of Kenosha elects not to be governed by Wisconsin Statute Chapter 68; instead, this contest procedure must be employed as the exclusive remedy for an addressee of an order or abatement completion notice given pursuant to this Section 16.252.D.5. (Summary Abatement). For clarity, and notwithstanding any other language in this Section 16.252.D.5.c. (Contests), this Section 16.252.D.5.c. (Contests) does not waive any immunity pursuant to Subsections 3 or 4 of Wisconsin Statute § 893.80. Also for clarity, the regular rules of civil procedure applicable to civil actions will apply to actions under this Section 16.252.D.5.c. (Contests).

**d. Expanded Remedies.**

- i. Intent.** This Section 16.252.D.5.d. (Expanded Remedies) is intended to ensure addressees of an order or abatement completion notice given pursuant to this Section 16.252.D.5. (Summary Abatement) have access to adequate procedures that satisfy constitutional requirements of due process while balancing the extraordinarily important municipal protections of Wisconsin Statute § 893.80. This balance seeks to provide due process while preserving the protections of Wisconsin Statute § 893.80 to the maximum extent legally permitted.
- ii.** If, in a timely Commenced action in the Kenosha County Circuit Court under Section 16.252.D.5.c. (Contests), the court makes a specific determination that a Person has been deprived of a constitutionally protected property or liberty interest by action under color of law pursuant to this Section 16.252.D.5. (Summary Abatement), and a specific determination that the procedure or remedies available to that Person under this Section 16.252.D.5. (Summary Abatement) are constitutionally inadequate for the purposes of due process, then, the protections of the provisions of Subsections 3 or 4 of Wisconsin Statute § 893.80 as they apply to that specific action and specific Person will be waived. The waiver in the foregoing sentence is limited and will waive the protections contained in one or both of Subsections 3 or 4 of Wisconsin Statute § 893.80 to the minimum extent necessary to enable Section 16.252.D.5.c. (Contests) to provide a constitutionally adequate procedure and remedy in the specific action and to the specific Person.
- iii.** The procedure for effectuating Section 16.252.D.5.d. (Expanded Remedies) must be as follows. The plaintiff must file a written document with the court indicating that they intend to challenge the constitutional adequacy of the procedure and remedies provided for by Section 16.252.D.5.c. (Contests) within the shorter of twenty (20) days after the action is Commenced or by the trial date, or this Section 16.252.D.5.d. (Expanded Remedies) will not apply to the action. If such a document is timely filed, the court may schedule further proceedings as it sees fit to determine the constitutional adequacy of the procedure and remedies, but the question of the constitutional adequacy of said procedure and remedies must not be decided prior to the question of whether the plaintiff violated Section 16.252.C. (Public Nuisance Violation) being resolved. For

clarity, this Section 16.252.D.5.d. (Expanded Remedies) provides no authority for a waiver taking place prior to the question of whether the plaintiff violated Section 16.252.C. (Public Nuisance Violation) being resolved. Also for clarity, any such waiver will not prohibit the correctness of any decision that led to the waiver from being challenged or appealed. This procedure must be strictly adhered to.

- e. **Finality.** If an action is not timely Commenced in the Kenosha County Circuit Court pursuant to Section 16.252.D.5.c. (Contests), then the order, abatement completion notice, and any abatement are deemed to be lawful.

**6. Non-Summary Abatement.** If an Enforcing Officer determines that a Public Nuisance was created or is being maintained, the Enforcing Officer may proceed under this Section 16.252.D.6. (Non-Summary Abatement).

- a. **Issuing an Order.** The Enforcing Officer may deliver an order to a Person violating Section 16.252.C. (Public Nuisance Violation).
- b. **Private Abatement.** The addressee of an order must abate the Public Nuisance referred to in the order within fifteen (15) days from its date of delivery. If abating a Public Nuisance within that timeframe would present a particularized hardship on the addressee of the order, the addressee may make a written statement to the Department detailing the hardship and requesting an extension. Such a written statement must be received by the Department prior to the expiration of the time for the addressee to lawfully abate the Public Nuisance. For clarity, addressees requesting an extension have no right to receiving an extension. The Director, or the Director's designee, has discretion to grant or deny an extension for any lawful reason. If a written response to a request for an extension is not sent within the three (3) days following its receipt by the Department, the request is deemed denied. If the Director, or the Director's designee, grants an extension, the applicable time to file an action contesting the order pursuant to Section 16.252.D.6.c. (Pre-Abatement Contests) is tolled to the same date the extension is granted through. If the specific Public Nuisance to be abated is that of Section 16.252.B.3. (Junk in the Front Yard) or 16.252.B.5. (Unburied Animal Carcass), the fifteen-day time period to abate the Public Nuisance is reduced to three (3) days. If the specific Public Nuisance to be abated is that of Section 16.252.B.7. (Blighted Building), the fifteen-day time period to abate the Public Nuisance is increased to thirty (30) days.
- c. **Pre-Abatement Contests.** Each addressee of an order given pursuant to this Section 16.252.D.6. (Non-Summary Abatement) must Commence an action pursuant to this Section 16.252.D.6.c. (Pre-Abatement Contests) in the Kenosha County Circuit Court to prohibit the Department from abating the Public Nuisance, and must Commence such action within fifteen (15) days from the date of delivery of the order, or any such claim will be forever barred. If contested, the City will bear the burden of proof on the question of whether the addressee violated Section 16.252.C. (Public Nuisance Violation). If such an action is timely Commenced in the Kenosha County Circuit Court, the Department must not abate the Public Nuisance during its pendency, including any applicable time for an appeal, unless authorized by a court or the addressee to abate the Public Nuisance. If the addressee prevails in the action, the court may order that the City must not abate the particular Public Nuisance pursuant to the particular order contested, but the court must not



order any compensatory or punitive damages or other equitable relief. The City of Kenosha elects not to be governed by Wisconsin Statute Chapter 68; instead, this contest procedure must be employed as the exclusive remedy for an addressee of an order given pursuant to this Section 16.252.D.6. (Non-Summary Abatement). For orders to abate the specific Public Nuisance prohibited by Section 16.252.B.3. (Junk in the Front Yard) or 16.252.B.5. (Unburied Animal Carcass), the fifteen-day time period to Commence an action is reduced to three (3) days. For orders to abate the specific Public Nuisance prohibited by Section 16.252.B.7. (Blighted Building), the fifteen-day time period to Commence an action is increased to thirty (30) days. For clarity, the regular rules of civil procedure applicable to civil actions will apply to actions under this Section 16.252.D.6.c. (Pre-Abatement Contests).

- d. **Public Abatement.** Upon the expiration of the time to Commence an action in the Kenosha County Circuit Court pursuant to Section 16.252.D.6.c. (Pre-Abatement Contests), and if the Public Nuisance described therein is not already abated, the Department may abate the Public Nuisance referred to in the order. For clarity, the Department may abate a Public Nuisance either itself or through any other available Governmental Entity, or by contract or other arrangement with a private Person. Also for clarity, the Department is authorized to enter the Premises containing the Public Nuisance for the purpose of abating the Public Nuisance, and such authority includes the ability to authorize other Persons to do the same.
  - e. **Finality.** If an action is not timely Commenced in the Kenosha County Circuit Court pursuant to Section 16.252.D.6.c. (Pre-Abatement Contests), then the order is deemed to be lawful.
7. **Abatement of Certain Nuisances.** The Common Council for the City of Kenosha declares that the least drastic manner of abating the specific Public Nuisances of Section 16.252.B.3. (Junk in the Front Yard) or 16.252.B.4. (Junk in an Outdoor Area) is to remove the Junk or carcass from the Premises and dispose of it. For clarity, the lack of a similar declaration as to other Public Nuisances does not imply that an appropriate manner of abating another Public Nuisance cannot also be to remove and dispose of it.
- E. **Responsibility.** Every owner of any property in the City of Kenosha has the following duties:
- a. To prevent their property from becoming or containing a Public Nuisance.
  - b. To be sufficiently responsible for and attentive to their Premises such that an order, abatement completion notice, or property removal notice which is delivered to the Premises will promptly reach said owner. An owner has the option, but not the obligation, to fulfill the responsibility contained in the foregoing sentence by both (1) providing the Department, in writing, with a property address or electronic mail address, and (2) keeping the Department updated if the property address or electronic mail address changes. Any order, abatement completion notice, or property removal notice that is delivered to any such property address or email address is deemed to be sufficiently delivered.
- F. **Forfeiture.** Any Person cited for violating Section 16.252.C. (Public Nuisance Violation) will forfeit between fifty dollars (\$50.00) and six hundred (\$600.00) dollars, plus the costs of

prosecution, assessments, and surcharges. Failure to pay any such forfeiture, costs, assessments, and surcharges may subject the violator to be sentenced to the County Jail for a period not to exceed twenty (20) days. Each day such violation continues will be considered a separate offense.

**G. Relationship to Other Methods of Enforcement.**

1. Nothing in this Section 16.252 (Public Nuisances) will prohibit the prosecution or abatement of Public Nuisances in accordance with any constitution, statute, rule, common law, or by any other source of legal authority.
2. Nothing in this Section 16.252 (Public Nuisances) will prohibit the enforcement of any other sections of the Code of General Ordinances (whether within or outside of this Section 16.252 (Public Nuisances)) against a Person violating Section 16.252.C. (Public Nuisance Violation). Enforcement of any other sections of the Code may be in addition to any enforcement action under Section 16.252.D. (Abatement of Public Nuisances). Nothing herein will prohibit the Department from both issuing a citation and delivering an order to a Person for a single violation of Section 16.252.C. (Public Nuisance Violation).
3. Failure to identify a condition or activity as a specific Public Nuisance under Section 16.252.B. (Specific Public Nuisances Declared) does not imply that a condition or activity is not, or cannot be, a Public Nuisance under Section 16.252.A. (Definitions), or under any constitution, statute, rule, common law, or by any other source of legal authority.
4. In regard to a Public Nuisance being created or maintained on any specified date, the Department may either proceed upon the procedure of Section 16.252.D.5. (Summary Abatement) or Section 16.252.D.6. (Non-Summary Abatement); it may not proceed upon both with the same order. The foregoing sentence does not prohibit the Department from sending multiple orders, whether pursuant to the same procedure or not, regarding different days that a Public Nuisance was created or maintained.

**H. Collection of Costs.** If the Department abates any Public Nuisance under this Section 16.252 (Public Nuisances), the cost may be collected as a special charge pursuant to Wisconsin Statute § 66.0627. This authority is in addition to any other source of legal authority for anyone to collect costs or fees for actions taken pursuant to this Section 16.252 (Public Nuisances).

**I. Non-Limitation of Discretion.** This Section 16.252 (Public Nuisances) is not intended to limit the discretion of the Department, nor impose a duty upon it, except where signified by the terms “will” or “must.” For example, the decisions to enforce, and the manner of enforcement (including, but not limited to, any manner of abatement) of any of this Section 16.252 (Public Nuisances) under any particular set of circumstances are discretionary.

**J. Property Return.** If, during an abatement pursuant to this Section 16.252 (Public Nuisances), personal property is removed from the Premises containing the Public Nuisance by the Department, or by a Person authorized to abate a Public Nuisance by the Department, this Section 16.252.J. (Property Return) applies. The Enforcing Officer will deliver a property removal notice to the same Person an order was delivered to. Section 1.21 of the Code of General Ordinances applies to any such property, but the thirty (30) day period in Section 1.21.A. will begin upon the date of delivery of the property removal notice. If the personal property that is removed is Junk, an

animal carcass, a Weed, or other property of de minimis value, this procedure will not apply.

- K. Public Abatement Limitations Period.** The Department must not abate any Public Nuisance under the authority of a given order unless it abates the Public Nuisance within the six (6) months following the date by which a contest must be Commenced under Section 16.252.D.5.c. (Contests), or Section 16.252.D.6.c. (Pre-Abatement Contests). The six-month period will be tolled for the duration of any legal proceeding challenging the order, including the applicable time for an appeal.
- L. Severability.** Any part of this Section 16.252 (Public Nuisances) is severable. If any provision, section, sentence, clause, phrase, or portion hereof is held invalid, any other provision, section, sentence, clause, phrase, or portion will not be affected thereby. If the application of any provision, section, sentence, clause, phrase, or portion to any Person or circumstances is held invalid, the application of other provisions, sections, sentences, clauses, or portions of such ordinance to other Persons or circumstances will not be affected thereby. It is declared to be the intent of this Section 16.252 (Public Nuisances) that the same would have been adopted had such invalid parts, if any, not been included herein.

**Section Seven:** Section 16.26 of the Code of General Ordinances for the City of Kenosha

is hereby amended as follows:

**16.26. – Penalties.**

- A. Violation Penalties.** Any Person who shall violate a provision of this Code, shall, upon conviction, be subject to a forfeiture of not more than one thousand dollars (\$1,000.00), and in addition, shall pay the costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense. Failure to promptly pay said forfeiture shall subject the violator to be sentenced to the County Jail for a period not to exceed sixty (60) days.
- B. Abatement of Violation.** The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal Occupancy of a Structure or premises, or to stop an illegal act, conduct business or utilization of the Structure or premises.
- C. Enforcement Authority.** The Department of City Inspections has the authority to enforce Chapter 16 of the Code of General Ordinances. The Director of City Inspections has the authority to issue and be named in citations or complaints regarding such ordinances, and may designate such other Persons within the Department of City Inspections who may also issue and be named in citations or complaints regarding such ordinances.

**Section Eight:** This ordinance will go into effect upon passage and publication.

ATTEST: \_\_\_\_\_, City Clerk/Treasurer  
MICHELLE L. NELSON

APPROVED: \_\_\_\_\_, Mayor  
JOHN M. ANTARAMIAN

Date: \_\_\_\_\_

Passed: December 4, 2023

Published: December 8, 2023

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