

ORDINANCE NO.

PRINCIPAL SPONSOR: ALDERPERSON DAVID F. BOGDALA
CO-SPONSORS: ALDERPERSON CURT WILSON
ALDERPERSON DOMINIC RUFFALO
ALDERPERSON RUTH DYSON
ALDERPERSON JACK ROSE
ALDERPERSON ROLLIN PIZZALA

TO RENUMBER SECTION 13.15 OF THE CODE OF GENERAL ORDINANCES ENTITLED “FEES” TO SECTION 13.16 AND TO CREATE SECTION 13.15 OF THE CODE OF GENERAL ORDINANCES FOR THE CITY OF KENOSHA TITLED BUSINESS NUISANCE

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

Section One: Section 13.15 of the Code of General Ordinances for the City of Kenosha, Wisconsin is hereby renumbered as follows:

13.16~~45~~ FEES

Section Two: Section 13.15 of the Code of General Ordinances for the City of Kenosha is hereby created as follows:

13.15 - Business Nuisance

A. **Purpose.** The City of Kenosha has identified a problem in that some commercial enterprises repeatedly disturb the peace and fail to prevent nuisance conditions on and around their property, and as such, these enterprises constitute a hazard to public safety and general wellbeing. The operation of these establishments and the use and occupation of their property result in flagrant and persistent violation of state and local laws and ordinances which substantially and seriously interfere with the interest of the public in enhancing the quality of life and community environment in the City. These businesses fail in their duty to maintain their properties in such a manner that permits disorderly conduct to the extent that emergency services are regularly requested to intervene in unlawful activities in and around the premises. The City believes this cycle wastes the resources of both itself and emergency service providers. These incidents, which oftentimes include fighting, discharging of firearms, and selling of illegal substances, are immediately dangerous to the citizens of the City. The Council finds that the sanctions and penalties pursuant to this section constitute an additional and appropriate method of law enforcement in response to the proliferation of the above-described public nuisances.

B. **Definitions.** For purposes of this section:

Adjacent Property means:

1. any private property that is owned, leased, or rented by the licensee, or used by its patrons, and that is located next to the business premises;
2. any highways and all premises held out for the public for use of their motor vehicles located next to the business premises;
3. any public sidewalks located next to the business premises; or
4. any private property which is owned, leased, or rented by the licensee, or used by its patrons with the knowledge or permission of the licensee, and that is: (i) used in connection with the operation of the business; and (ii) located within 250~~500~~ feet of the licensed premises.

Illegal Acts means any conduct or activity whether or not charged and/or convicted that violates any federal or state law defining a felony.

Incident means a disturbance which necessitates assistance from law enforcement to restore disorder due to a call for service by someone other than the business owner or its employees who are responsible for the business establishment and adjacent property.

Licensee means any person to whom a City license has been granted by the City.

Objectionable Conditions include, but are not limited to, disturbance of the peace, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, littering, loitering, public urination and defecation, lewd conduct, drug consumption or possession, fighting in public, damage or destruction to property without the consent of the property owner, unlawful pedestrian or vehicular traffic, standing or parking of vehicles that obstructs traffic on public streets or excessive loud noise music or sound whether or not charged and/or convicted.

Person means corporation, company association, firm, partnership, limited liability company, limited liability partnership and individual(s).

C. **Duty of Control.** A Person has the duty to control, maintain, within reasonable expectations, the interior and exterior of the Person's business establishment and Adjacent Property in a manner that maintains public safety and prevents Illegal Acts and Objectionable Conditions by the Person, Person's employees, patrons, invitees, guests, or visitors on the business premises or adjacent property. Any combination of two or more illegal acts and /or Objectionable Conditions, when observed at the same incident for which Kenosha Police Department have responded, **and when associated with the operation of the business**, shall be prima facie proof of Person's failure to control and maintain as required herein.

D. **Disciplinary Action.** Any license issued to a business by the City of Kenosha may be suspended or revoked if a licensee's business is or creates a nuisance. A licensed business is or creates a nuisance if: (i) within any consecutive 12 months, not less than three separate incidents occur on the licensed premises, on or in the parking lot owned or operated by licensee which serves the licensed premises, the lot upon which the building being the subject of the license or parking lot serving the licensed premises is situated , or on Adjacent Property,

involving Objectionable Conditions; (ii) an incident occurs on the licensed premises, on or in the licensed premises' parking facility, or on Adjacent Property, involving an illegal act. The licenses of any business that is or creates a nuisance under this subsection shall be subject to suspension or revocation pursuant to the license's applicable code section.

E. **Penalty.** Any person violating any provision of this Section shall be subject to a forfeiture of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00). Each day of violation of operating without required licenses or permits and each violation of any provision hereof shall constitute a separate offense.

F. **Severability.** The provisions of any part of this Section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances, is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this Section that the same would have been adopted had such invalid provisions, if any, not been included herein.

Section Three: This Ordinance becomes effective upon passage and publication.

ATTEST: _____ City Clerk/Treasurer
MICHELLE L. NELSON

APPROVED: _____ Mayor Date: _____
JOHN M. ANTARAMIAN

Passed:

Published:

Drafted By:

MATTHEW A. KNIGHT
Deputy City Attorney