

TOWN OF WESTPORT
EMERGENCY ORDER NO. 20-01

AN EMERGENCY ORDER REGARDING CERTAIN CONSTRUCTION ACTIVITY
DURING THE COVID-19 PANDEMIC EMERGENCY IN TOWN OF WESTPORT, DANE
COUNTY, WISCONSIN

(Avoiding Optional or Aesthetic Construction in Multi-Family Structures)

WHEREAS, An emergency, namely the COVID-19 Pandemic, has impacted the Town of Westport; and

WHEREAS, pursuant to sections 323.11 and 323.14(4)(b) of the Wisconsin Statutes, the chief administrative officer of the Municipality of Town of Westport proclaimed a state of emergency in effect from March 14, 2020 until the Board could meet; and,

WHEREAS, on March 23, 2020, the Town Board of the Town of Westport ratified the Administrator's Emergency Proclamation due to the COVID-19 Pandemic by Resolution 20-01, which continued that emergency situation until July 30, 2020 if necessary; and,

WHEREAS, the Governor of the State of Wisconsin issued Emergency Order #12 titled "Safer at Home" on March 24, 2020 to be effective until April 24, 2020; and,

WHEREAS, Section 1 of that Order commences with the following: "All individuals present with the State of Wisconsin are ordered to stay at home or at their place of residence...;" and,

WHEREAS, Section 10 of that Order provided an exception for Essential Infrastructure, which included: "housing construction except that *optional or aesthetic construction should be avoided*" (emphasis added); and,

WHEREAS, Town of Westport Code, Sec. 9-6-1, Public Nuisances Prohibited, provides that "No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Westport, and Town of Westport Code, Sec. 9-6-2, Public Nuisances Defined provides that (a) In any way render the public insecure in life or in the use of property; (b) Greatly offend the public morals or decency; (c) 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;" and,

WHEREAS, the Dane County Code at Section 34.04 provides: "PROHIBITION OF EXCESSIVE NOISE DISTURBING THE PUBLIC PEACE.

(1) Excessive noise defined. Excessive noise, as used in this section, shall mean any sound or level of sound of sufficient loudness that it tends unreasonably to disturb the peace, comfort, quiet or repose of persons in the vicinity of the noise including, but not limited to, any such noise produced in the operation or use of any radio, phonograph, tape or disc player, television or other mechanical or electrical device, machine or motor vehicle.

(2) No person shall cause or participate in the production of any excessive noise, and no owner, user, occupier or other person having charge of any property within Dane County may cause, suffer, permit or participate in the production of excessive noise as defined in sub. (1) above;" and,

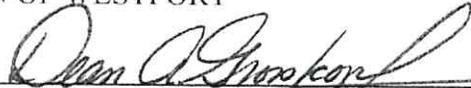
WHEREAS, there are situations, depending on the totality of the circumstances considering all facts, in which optional or aesthetic construction in multi-family living situations (apartments and condominiums) does not provide for the ability of people to shelter at home in a peaceable manner, and which substantially annoys, injures, or endangers the comfort, health, repose or safety of the person complying with the Governor's Order, or the noise coming from the construction is such that it tends to unreasonably disturb the peace, comfort, and repose of persons in the vicinity of the noise who are complying with the Governor's Order.

NOW, THEREFORE, IT IS HEREBY ORDERED, under the authority provided to the Chief Executive Official of the Town of Westport, and hereby delegated to the Town Administrator, by the Town's Emergency Resolution and in interpretation of and reliance on the Governor's Emergency Order #12, as follows:

1. The Town Administrator or the Town Building Inspector are hereby given the authority to determine which optional or aesthetic construction must be avoided on a case-by-case basis in their discretion considering the relevant circumstances (and as related to the other directives, goals and intents of the Governor's Order) to provide for the peace and comfort of those residing nearby whose peace and comfort will be unreasonably be disturbed should that construction continue in light of the Governor's Order that requires the people of Wisconsin to remain in their residences during this emergency; and,
2. Based on the above and in combination with the Governor's stay at home orders, such described construction may be deemed in violation of the Order in this emergency and so can be stopped or "red tagged" until the expiration of that Order on April 24, 2020, or as extended, by the authority of the Town Building Inspector or Town Administrator; and,
3. If such contractor does not comply with the stop work order noted above, then additionally the Town Building Inspector has the authority to order the ceasing of construction activity for all other permits that such contractor may be working on in the Town or not allow that contractor to obtain additional permits as a habitual offender until compliance.
4. Under the Governor's Order, in addition to all other remedies available including equitable remedies, such violations shall be enforced by local law enforcement as responsible for enforcing the Governor's Order, and each violation is punishable by up to 30 days imprisonment or up to \$250 fine.

The above and foregoing Order was duly issued by the Town Board Chair of the Town of Westport, Dane County, Wisconsin on March 25, 2020 and shall be in effect until emergency orders providing for the shelter in place of residents in the Town are no longer in effect, but at a minimum until April 24, 2020.

TOWN OF WESTPORT

By: 
Dean A. Grosskopf, Town Board Chair

Attest: 
Thomas G. Wilson,
Town Attorney/Administrator/Clerk-Treasurer

APPROVED: 3/25/2020
POSTED: 3/26/2020