

CHAPTER 5

PUBLIC NUISANCES

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5.01 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village.

5.02 PUBLIC NUISANCE DEFINED.

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.

5.03 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definitions of sec. 5.02 of this chapter:

(1) Adulterated Food. All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) Unburied Carcasses. Carcasses of animals, birds or fowl not intended for human consumption, or foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) Breeding Places for Vermin, Etc. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(4) Stagnant Water. All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) Privy Vaults and Garbage Cans. Privy vaults and garbage cans which are not fly tight.

(6) Animals. All animals running at large.

(7) Air Pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

(8) Noxious Weeds. All noxious weeds, as defined in Wis. Stat. § 66.0407. In addition, other rank growth of vegetation, and all weeds, grasses and plants over 8 inches in height excluding trees and shrubs, which:

(a) Detract from the surrounding area and properties.

(b) Become a possible fire hazard.

(c) Become a health hazard due to their pollen or a potential cover for disease-carrying rodents and other small animals.

(d) Are of infectious or poisonous nature in or adjacent to a populated area, regardless of height.

(e) Become a potential hazard to vehicular traffic in vision clearance triangles.

(9) Water Pollution. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(10) Noxious Odors, Etc. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.

(11) Street Pollution. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

(12) Pesticide Application. The application, or causing of the application, of any pesticide, as defined in Wis. Stat. § 94.67(25) in such a manner as to endanger the health of persons within the Village.

5.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of sec. 5.02 of this chapter.

(1) Disorderly Houses. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) Gambling Devices. All gambling devices and slot machines.

(3) Unlicensed Sale of Liquor and Beer. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by this Code.

(4) Continuous Violation of Village Ordinances. Any place or premises within the Village where Village ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(5) Illegal Drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State law or this Code.

5.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of sec. 5.02 of this chapter:

(1) Signs, Billboard, Etc. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.

(2) Illegal Buildings. All buildings erected, repaired or altered in violation of the provisions of this Code relating to materials and manner of construction of buildings and structures within the Village.

(3) Unauthorized Traffic Signs. All unauthorized signs, signals, markers or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any device, sign or signal.

(4) Obstruction of Intersections. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) Tree Planting. No tree shall be planted in the Village right-of-way which refers to the parcel of land between the edge of the roadway and the property line.

(a) No tree shall be planted in sidewalk or terrace area. "Terrace or sidewalk area" means that area between the sidewalk and the nearest curb line running parallel or generally parallel thereto or in the absence of a sidewalk ten (10) feet beyond the curb line.

(b) Any tree previously planted on the Village right-of-way, sidewalk or terrace area will be the property owner's responsibility.

(6) Tree Limbs. All limbs of trees which project over and less than 10 feet above any public sidewalk or less than 15 feet above a street or other public place.

(7) Dangerous Trees. All trees which are injurious to public health or safety because of a diseased or damaged condition, and the storage of cut elm wood, unless such wood is debarked or sprayed with an effective elm bark beetle destroying insecticide.

(8) Fireworks. All use, possession or display of fireworks except as provided by the laws of the State and this Code.

(9) Dilapidated Buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(10) Wires and Cables over Streets. All wires and cables over streets, alleys or public grounds which are strung less than 18 feet above the surface thereof.

(11) Noisy Animals or Fowl. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.

(12) Obstructions of Streets, Excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by this Code or which, although made in accordance with this Code, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.

(13) Snow, Ice and Debris Removal. All debris not removed, and all snow and ice not removed or sprinkled with salt, ashes, sawdust or sand as provided in s. 9.12 of this Code.

(14) Refrigerators. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(15) Open Pits, Basements, Etc. All open and unguarded pits, wells, excavations and basements.

(16) Flammable Liquids Violations. Repeated or continuous violations of this Code or the laws of the State relating to the storage of flammable liquids.

5.06 JUNK AND CERTAIN VEHICLES, RECREATIONAL EQUIPMENT.

(1) Public Nuisances Declared. The following are hereby declared to be public nuisances wherever they may be found within the Village.

(a) Any motor vehicle, truck body, tractor or trailer as enumerated in subs. (3) and (4) below and defined in sub. (2)(a), (b) and (c) below.

(b) Any junk stored contrary to sub. (5) below.

(c) Any recreational equipment stored contrary to sub. (6) below.

(2) Definitions. The words, phrases and terms used in this section shall be interpreted as follows:

(a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.

(b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.

(c) Motor Vehicle. As defined in Wis. Stat. § 340.01(35).

(d) Junk. Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, discarded building materials or any other unsightly debris, the accumulation of which has an adverse effect upon the neighborhood or Village property values, health, safety or general welfare.

(e) Recreation Equipment. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.

(f) In the Open. Land which may be viewed from public streets or adjoining property.

(3) Storage of Inoperable Vehicles, Etc. No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open upon any public or private property in the Village for a period exceeding ten (10) days.

(4) Storage of Unlicensed Vehicles, Etc. No person shall accumulate, store or allow any unlicensed motor vehicle, truck body, tractor or trailer in the open upon any public or private property in the Village for a period exceeding ten (10) days.

(5) Storage of Junk Prohibited. No person, except a person issued a permit shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the Village.

(6) Storage of Recreational Equipment Regulated. No person shall store any recreational equipment on any street right of way for a period of more than 48 hours.

(7) Issuance of Citation, Action or Abate. Whenever the Village's law enforcement officer or the Village Board shall find any such vehicle, junk or recreational equipment, as defined in sub. (2) above, accumulated, stored or remaining in the open upon any property within the Village contrary to the provisions of subs. (3), (4), (5) and (6) above, the officer or the Board shall notify the owner of said property on which such material is located of the violation of this section. If such vehicle, junk or recreational equipment is not removed within 10 days, or such other time as may be given, the officer or Board shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle, junk or recreational equipment is located. In addition, action to abate such nuisance may be commenced, as provided in sec. 5.07.

(8) Penalty. Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a forfeiture as provided in ch.13.05 of this Code plus the costs of said prosecution. Each day that a violation of this section continues shall be deemed a separate offense.

5.07 ABATEMENT OF PUBLIC NUISANCES.

(1) Enforcement. It shall be the duty of the Village Board and/or law enforcement to make periodic inspections and inspections upon complaint to ensure that the provisions under this section are not violated. No action shall be taken under this section to abate a public nuisance unless the officer or Board shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself/herself or itself that a nuisance does, in fact, exist.

(2) Summary Abatement.

(a) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village Board may direct the Village's law enforcement officer or Village Clerk to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four (24) hours and shall state that unless such nuisance is so abated, the Village shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(b) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer or Village Board shall cause the abatement or removal of such public nuisance.

(3) Abatement by Court Action. If the inspecting official or Village Board shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the official or the Village Board shall serve notice on the person causing or maintaining the nuisance and the owner of the property to remove the same within ten (10) days or such greater time as may be provided in the notice. If such nuisance is not removed within the time stated in the notice, the Village Board may direct the Village Attorney to commence an action in Circuit Court for the abatement of the nuisance.

(4) 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, nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture as provided in sec. 5.11.

(5) Cost of Abatement. In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of

abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

5.08 TREE TRIMMING, DISEASED AND INFECTED TREE CONTROL.

(1) Trees to be Kept Trimmed. Trees standing in and upon any public street or place, or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley will provide a clearance of not less than fourteen feet and a clearance of not less than ten feet over any other public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.

(2) Public Nuisances Declared. The following are hereby declared to be public nuisances where they may be found within the Village.

(a) Any living or standing tree or part thereof infected with the Dutch Elm Disease or other tree diseases.

(b) Any dead, diseased or infected tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective fungicide or insecticide.

(3) Nuisances Prohibited. No person shall permit any public nuisance, as defined in sub. (1) above, to remain on any premises owned or controlled by him within the Village.

(4) Inspection. The Village’s Weed Commissioner or any other official authorized by the Village Board may enter upon private premises with the consent of the owner or occupant of the property or, if no consent is received, after obtaining a special inspection warrant, for the purpose of carrying out any of the provisions of this section.

(5) Abatement of Disease Nuisances.

(a) Whenever it shall be found, with reasonable certainty on examination or inspection, that any public nuisance, as defined in this section, exists within the Village, the Weed Commissioner shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of the disease fungus or the insect, pests or vectors known to carry such disease.

(b) Before abating any such nuisance on private premises or in any terrace strip between the lot line and the curb, the inspector shall proceed as follows:

(i) If the inspector shall determine that danger to other trees from said nuisance is not imminent; he or she shall submit a written report of his or her findings to the Village Board, who shall proceed as provided in s. 27.09(4), Wis. Stats.

(ii) If the inspector shall determine that danger to other trees within the Village is imminent, he or she shall notify the owner or abutting owner of the property on which such nuisance is found, in writing, if such owner can be found, otherwise by publication in a newspaper of general circulation in the Village that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice unless the inspector shall find that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limit, the inspector shall cause the abatement thereof.

(c) No damage shall be awarded to the owner for destruction of any tree, wood or material or any part thereof pursuant to this section.

(6) Assessment of Costs of Abatement.

(a) The entire cost of abating any public nuisance, as defined in sub. (2) above may be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with Wis. Stat. sec. 66.0627.

(b) The inspector shall keep strict account of the costs of work done under this section and shall report monthly to the Clerk all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk shall include in his or her report to the Village Board the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against such parcels or lots in the same manner as other special assessments or charges.

5.09 BURNING RESTRICTED.

(1) No person shall kindle any fire within the Village without first securing a written permit from the Village Fire Chief. This section shall not apply to any fire kindled in a fire pit not exceeding three (3) feet in diameter, gas grill or charcoal grill unless the fire exceeds a flame height of six (6) feet, in which case a burn permit shall be required.

(2) Leaf Burning. Open burning of leaves is allowed only on privately owned property. Burning shall be conducted in safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on

roadways. Open burning shall be constantly attended and supervised by a competent person of at least sixteen (16) years of age until such fire is extinguished.

(3) Trash Burning Restricted. No person shall kindle or cause to be any fire in or upon any street, alley, public way, park or any public or private ground within the Village within 25 feet of any building or within any fire lane.

5.10 OUTDOOR SOLID FUEL HEATING DEVICES

(1) Definitions. The following definitions shall be applicable herein.

(a) Outdoor Solid Fuel Fired-Heating Device. An outdoor solid or liquid fuel heating device is a device located outside a single or multi-family residence or garage, and designed for the combustion of solid or liquid fuels such as wood, coal or oil, in order that usable heat is derived for the warming of any structure

(b) Stacks or Chimneys. Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device especially that part of such structures extending above a roof.

(c) Person. An individual, partnership, corporation, company, or other association.

(d) Public Nuisance. Any act or failure to perform a legal duty required by this section is declared a public nuisance.

(2) General Prohibition on Outdoor Solid Fuel Heating Device. The construction of an outdoor solid wood heating device, as defined herein, is expressly prohibited within the boundaries of the Village.

(a) Any outdoor solid fuel heating device in place prior to the adoption of this ordinance shall be grandfathered in. When the existing device is non-repairable it must be removed and may not be replaced.

5.11 PENALTY.

In addition to the penalties provided in this chapter, any person who shall violate any provision of this chapter, or permit or cause a public nuisance, shall be subject to a penalty as provided in sec. 13.05 of this Code.