

CHAPTER 48

PUBLIC NUISANCES

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48.01 PUBLIC NUISANCES PROHIBITED

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

48.02 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:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) In any way render the public insecure in life or in the use of property;
- (c) Greatly offend the public morals or decency;
- (d) 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.

48.03 PUBLIC NUISANCES AFFECTING HEALTH

- (a) **HEALTH NUISANCES.** 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 definition of Sec. 48.02.
 - (1) Adulterated Food. All decayed, harmfully 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) Noxious Weeds. All noxious weeds and other tank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot.
- (7) 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.
- (8) 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 extremely 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.
- (9) 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.
- (10) All Animals or Foul Running at Large.
- (11) Other Pollutants. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants 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 in the Village.
- (12) Public Urination and Defecation
- a. It shall be unlawful for any person to urinate or defecate in public, other than when using a toilet, urinal or commode located in a restroom, bathroom or other structure enclosed from public view.
- b. The enforcement provisions of this prohibition shall not apply to the following individuals who may not be able to adequately control the bodily functions that control urination or defecation:
1. Children five (5) years of age or younger;
 2. Persons of any age who violate this ordinance due to a verified medical condition." (Ord. #488-10)

48.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY

- (a) **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. 48.02:
- (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 the ordinances of the Village.
 - (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 the laws of the state of Wisconsin or ordinances of the Village.
 - (6) Unlicensed Sale of Tobacco Products. The sale of tobacco products without a permit or license as provided for by the ordinances of the Village.

48.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

- (a) **SAFETY NUISANCES.** 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. 48.02.
- (1) Signs, Billboards, 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 the ordinances of the Village relating to

materials and manner of construction of buildings and structures within the Village.

- (3) Unauthorized Traffic Signs. All unauthorized signs, signals, markings 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 such 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 Limbs. All limbs of trees which project over any public sidewalk, street or other public place and present a safety hazard.
- (6) Dangerous Trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (7) Fireworks. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- (8) 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.
- (9) Wires Over Streets. All wires over streets, alleys, or public grounds which are strung less than twenty (20) feet above the surface thereof.
- (10) 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.
- (11) Obstructions of Streets: Excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, 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.
- (12) Noise. All loud, discordant and unnecessary noises or vibrations.
- (13) Open Excavations. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (14) Snow and Ice. All snow and ice not removed or sprinkled with sand as required by this Code of Ordinances.

48.06 CHRONIC NUISANCE PROPERTIES

- (a) **DEFINITIONS.** The following terms shall be defined as follows in this section:
- (1) **"Chief"** shall mean the Chief of Police or his or her designee.
 - (2) **"Enforcement Action"** shall mean an arrest, the issuance of a citation, or the issuance of a written or verbal warning.
 - (3) **"Nuisance Activity"** shall mean any of the following activities, behaviors, or conduct occurring on a premises:
 - a. An act of Harassment, as defined in §947.013, Wis. Stats.
 - b. Disorderly Conduct, as defined in §947.01, Wis. Stats.
 - c. Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
 - d. Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
 - e. Prostitution, as defined in §944.30, Wis. Stats.
 - f. Theft, as defined in §943.20, Wis. Stats.
 - g. Receiving Stolen Property, as defined in §943.34, Wis. Stats.
 - h. Arson, as defined in §943.02, Wis. Stats.
 - i. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
 - j. Gambling, as defined in §945.02, Wis. Stats.
 - k. Animal violations, as defined in Chapter 43 of the Municipal Code.
 - l. Trespassing, as defined in §943.13 and §943.14, Wis. Stats.
 - m. Weapons violations, as defined in Section 27.17, Village Municipal Code.
 - n. Noise violations, as defined in Section 44.06 of the Municipal Code.
 - o. Any conspiracy to commit, as defined in §939.31, Wis. Stats., or attempt to commit, as defined in §939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in subdivisions 3a. through n. above.
 - p. The execution of arrest or search warrants at a particular location.
 - q. Alcohol violations, as defined in Chapter 47 of the Municipal Code, and §125.07, Wis. Stats.
 - r. Obstructing or Resisting an Officer, as defined in §946.41, Wis. Stats.
 - s. Inspection-related activities by the Fire Chief, Building Inspector or Health Officer, or their designees, where the Police Department also responds.
 - t. Public Nuisance violations, as defined in Sec. 48.02 of the Code, including, but not limited to, the storage of junk and the storage of abandoned vehicles.

- u. Other law enforcement actions as determined by the Chief.
 - (4) **"Owner"** shall mean the owner of the premises and his or her agents.
 - (5) **"Premises"** shall mean an individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.
- (b) **NOTICE.** Whenever the Chief determines that three or more nuisance activities resulting in enforcement action have occurred at a Premises during a 12-month period, the Chief will notify the Owner of the Premises in writing of such activities. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but 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 to the Owner by Registered Mail with return receipt or by personal service upon the Owner.
- (c) **ABATEMENT PLAN.** Any Owner receiving notice pursuant to this Section shall meet with the Chief, or his/her designee, within five (5) days of receipt of such notice. The parties shall review the problems occurring at the Premises. Within ten (10) days of this meeting, the Owner shall submit to the Chief, or his/her designee, an abatement plan to end the nuisance activity on the Premises. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the Premises who can be contacted in the event of further police, fire, or inspection contact.
- (d) **ADDITIONAL NUISANCE ACTIVITY.** Whenever the Chief determines that additional nuisance activity has occurred at a Premises for which Notice has been issued pursuant to Section 48.06(b) of the Municipal Code, more than fifteen (15) days after the date of such Notice, and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities at the Premises and cause such charges and administrative costs to be assessed and collected as a special charge against the Premises pursuant to §66.0627, Wis. Stats.
- (e) **APPEAL.** Appeal of the determination of the Chief of Police pursuant to either Sections 48.06(c) or 48.06(d) of the Municipal Code, may be submitted to the Board of Appeals. Chapter 68, Wisconsin Statutes, shall not apply to such an appeal. (Ord. #502-2011)

48.07 ABATEMENT OF PUBLIC NUISANCES

- (a) **ENFORCEMENT.** The Chief of Police, the Chief of the Fire Department, the Building Inspector and Health Officer shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that the provisions of this Chapter are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- (b) **ABATEMENT.** If the inspecting officer shall determine that a public nuisance exists within the Village, which nuisance does not pose a great and immediate danger to the public health, safety, peace, morals or decency, the abatement thereof shall be pursued and initiated under the provisions of Chapter 823 of the Wisconsin Statutes.
- (c) **SUMMARY ABATEMENT.** 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 President may direct the proper officer to cause the same to be immediately abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (d) **ABATEMENT AFTER NOTICE.** If the inspecting officer 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, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in sub(b).

48.08 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.