

CHAPTER 11 PUBLIC NUISANCES

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11.01 PUBLIC NUISANCES PROHIBITED

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

11.02 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.

11.03 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 definition of sec. 11.02:

- (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 rank 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) UNSIGHTLY DEBRIS.
- (a) Prohibited. No person shall accumulate or store unsightly debris on any lot or parcel of land within the Village, except by special permit issued under section 175.25 Wis. stats.
- (b) Definition. Without limitation because of enumeration, unsightly debris is defined as including the following items: Junked automobiles and parts thereof; old automobiles, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof; rubbish, garbage, refuse, junk, bricks, cement blocks or other similar items and waste materials such as may tend to depreciate property values in the area, or create a nuisance or hazard.
- (c) Order By Building Inspector. The Building Inspector shall examine any premises concerning which there has been a complaint of violation of this subsection, and if he believes the subsection has been violated may, in writing, order the premises cleaned, placed in order or made sightly within 10 days. Failure of the property owner to comply with such order shall be a violation of this subsection.

11.04 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. 11.02:

- (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.

11.05 PUBLIC NUISANCES AFFECTING PLACE 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. 11.02:

(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 AND/OR SHRUBBERY.** All limbs of trees or shrubbery which project over and less than 10 feet above any public sidewalk, street or other public place.

(6) **DANGEROUS TREES AND/OR SHRUBBERY.** All trees or shrubbery 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.** Wires over streets, alleys, or public grounds which are strung less than 15 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) **UNLAWFUL ASSEMBLY.** Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

11.055 THREATS TO TREES

(1) INTENT AND PURPOSE OF SECTION: DUTCH ELM DISEASE, ELM BARK BEETLES, OAK WILT, GYPSY MOTHS AND EMERALD ASH BORE DECLARED PUBLIC NUISANCES. Whereas the Village Board has determined that there are many trees growing on public and private premises within the Village, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the Village and that the health and life of such trees is threatened by a fatal disease. The Board hereby declares its intention to control and prevent the spread of such diseases and the insect pests and vectors which carry such disease and declares such diseases and insects to be public nuisances.

(2) VILLAGE TREE INSPECTOR. The office of Village Tree Inspector is hereby created to be filled by appointment by the Village President subject to confirmation by the Village Board. The Village Tree Inspector shall have the powers and perform the duties imposed by this section. He may also hold the office of Village Weed and Tree Commissioner. He shall work under the supervision of the Tree Commission.

(3) DEFINITIONS. As used in this section, unless otherwise clearly indicated by the context:

(a) "Public nuisance" means:

1. Dutch elm disease.
2. Elm bark beetles.
3. Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus or in a weakened condition which harbors any of the elm bark beetles.
4. Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
5. Infestation of Gypsy Moths.
6. Oak Wilt disease.
7. Infestation Emerald Ash Bore.

(b) "Public property" means premises owned or controlled by the Village; including without limitation because of enumeration, public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or improved portion of any public way.

(c) "Person" means person, firm or corporation.

(4) INSPECTION.

(a) The Village Tree Inspector shall inspect or cause to be inspected at least twice each year all premises and places within the Village to determine whether any public nuisance exists thereon. He shall also inspect or cause the inspection of any elm tree reported or suspected to be infected with the Dutch elm disease or any elm bark bearing material reported or suspected to be infested with elm bark beetles.

(b) Whenever necessary to determine the existence of Dutch elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens, from the

tree in such manner as to avoid permanent injury thereto and deliver such specimens to the Tree Inspector.

The Tree Inspector shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances. He may, instead, submit the sample to the County Agent for analysis.

(c) The Tree Inspector may enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this section.

(5) ABATEMENT OF NUISANCES; DUTY OF TREE INSPECTOR.

(a) The Tree Inspector shall order, direct, supervise and control the abatement of public nuisances as defined in this section by spraying, removal, burning or by other means which he determines to be necessary to prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or vectors known to carry such disease fungus.

(b) Whenever the Tree Inspector after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the Village, he shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus.

(c) When the Tree Inspector shall determine with reasonable certainty that a public nuisance exists upon private premises (or upon the terrace strip between the lot line and the curb), he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property (or the abutting property), if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than 14 days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommended procedure for its abatement, and shall further state that unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of elm trees in the Village.

1. The Tree Inspector shall cause the abatement thereof at the expense of the property served (or abutting property). If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village.

2. If after hearing held pursuant to this paragraph it shall be determined by the Tree Inspector that a public nuisance exists, he shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within 24 hours after such hearing, the Tree Inspector shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this section. The Tree Inspector may extend the time allowed the property owner for abatement work but not to exceed 10 additional days.

(6) SPRAYING.

(a) Whenever the Tree Inspector shall determine that any elm tree or part thereof is infected with Dutch elm disease fungus or is in a weakened condition and harbors elm bark beetles, he may cause all elm trees within a 1,000 foot radius thereof to be sprayed with an effective elm bark beetle destroying concentrate.

(b) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this ordinance, the Tree Inspector shall cause to be given advance public notice of such operations by newspaper, radio, television, public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least 24 hours in advance of spraying.

When any residue or concentrate from municipal spraying operation can be expected to be deposited on any public street, the Tree Inspector shall also notify the Chief of Police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each block of any affected street at least 24 hours in advance of spraying operations.

(c) When appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with paragraph (b), the Village shall not allow any claim for damages to any vehicle caused by such spraying operations.

(d) When trees on private property are to be sprayed, the Tree Inspector shall notify the owner of such property and proceed in accordance with the requirements of sub. (5)(c).

(7) COST OF TREE CARE: SPECIAL ASSESSMENTS.

(a) The cost of abatement of a public nuisance at the direction of the Tree Inspector if the nuisance is located on public property, shall be borne by the Village (except the cost of abating a public nuisance on the public street right-of-way which is the responsibility of the abutting home owner).

(b) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises when done at the direction and under the supervision of the Tree Inspector shall be assessed to the property on which such nuisance, tree or wood is located as follows:

1. The Tree Inspector shall keep a strict account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the Village Board on or before October 15 of each year.

2. Upon receiving the Tree Inspector's report, the Village Board shall hold a public hearing on such proposed charges, giving at least 14 days advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the municipality and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.

3. After the hearing, the Village Board shall affirm, modify or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.

4. The Village Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last known address, stating that unless paid within 30 days of the notice, such assessment shall bear interest at the rate of 6% per annum and will be entered on the tax roll as a delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.

5. The Village hereby declares that in making assessments under this ordinance, it is acting under its police power and no damage shall be awarded to any owner for the destruction of any diseased or infested elm tree or elm wood or part thereof.

6. The amount chargeable against any parcel or lot in any year under this section shall not exceed 10% of the assessed value of the premises, exclusive of

improvements as shown on the year's tax roll. The portion of any assessment in excess of such percentage amount shall be charged to the Village and paid out of the Park's budget.

(8) **PROHIBITED ACTS AND PENALTIES.** Any person who does any of the following acts within the Village shall upon conviction thereof be subject to a forfeiture as provided in §20.05 of this Code:

(a) Transports any bark bearing elm wood, bark or material on public streets or highways or other public premises without first securing the written permission of the Tree Inspector.

(b) Interferes with or prevents any acts of the Tree Inspector or his agents or employees while they are engaged in the performance of duties imposed by this section.

(c) Refuses to permit the Tree Inspector or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this section.

(d) Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Tree Inspector to abate such nuisance.

11.06 ABATEMENT OF PUBLIC NUISANCES

(1) **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 such provisions 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 have satisfied himself that a nuisance does in fact exist.

(2) **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 abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(3) **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 10 days. If such nuisance is not removed within such 10 days, the proper officer shall cause the nuisances to be removed as provided in sub. (2).

(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 of Wisconsin.

(5) **COURT ORDER.** Except when necessary under sub. (2), no officer hereunder shall force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

11.07 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.

11.08 PENALTY

Except as otherwise provided, 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 §20.05 of this Code.