

CHAPTER 23

NUISANCES

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CHAPTER 23

NUISANCES

SECTION 23.01 Public Nuisances Prohibited.

No person may engage in any act that constitutes a public nuisance. No person may allow, permit, create, erect, contrive, cause, continue, or maintain a public nuisance.

SECTION 23.02 Public Nuisances Affecting Health.

The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting health:

- (a) All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public.
- (b) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, and scrap metal; any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed; and carcasses of dead animals not intended for human consumption that are not buried 24 hours after death.
- (c) All stagnant water in which mosquitoes, flies, or other insects can multiply.
- (d) All noxious weeds as defined by Wisconsin law.
- (e) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants, including any foul, offensive, nauseous, noxious, or disagreeable odors or gases, in such quantities as to be repulsive, endanger the health of persons of ordinary sensibilities, or threaten or cause substantial injury to property.
- (f) Any use of property that shall cause any nauseous or unwholesome substance to flow into or upon any street, gutter, alley, sidewalk, or public place or cause the pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, industrial wastes, or other substances.
- (g) The act of throwing glass, refuse, waste, filth, or other litter upon the streets, alleys, highways, public parks, or other property of the Village.
- (h) The act of throwing snow, grass, leaves or other forms of yard waste upon the streets, alleys, highways, public parks or other property of the Village.
- (i) The act of carrying or throwing a glass container or containers into a public park or public grounds.
- (j) The act of riding or otherwise transporting a bicycle into an area of a public park that has been posted or designated as forbidden to bicycles.

SECTION 23.03 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:

- (a) All limbs of trees that are dead or that are less than 14 feet above the surface of a public street or are less than 10 feet above any sidewalk or other public place; all wires over streets, alleys, or public grounds that are less than 15 feet above the surface thereof; and all awnings that extend less than seven feet above the sidewalk.
- (b) The act of throwing or propelling a snowball, arrow, stone, or any other object by hand or by any other means at any person, at or into any vehicle or building, or from or on any street, sidewalk, alley, highway, park, playground, or any other public place. This provision includes the depositing of snow, grass, grass clippings, leaves or yard waste into a public street.
- (c) Any building or structure so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
- (d) Any open and unguarded pit, well, excavation, cistern, or unused basement that is freely accessible from any public street, alley, or sidewalk.
- (e) Any abandoned refrigerator or icebox from which the doors or other covers have not been removed or that is not equipped with a device for opening from the inside.
- (f) Any grass, garden refuse, leaf, or trash fire unless the Village Administrator/Clerk-Treasurer has issued a written permit for such a fire. The Village Administrator/Clerk-Treasurer shall issue such a permit only after the Chief of the Fire Department has reviewed the application for the permit and only upon approval of and subject to any conditions for the protection of life and property imposed by the Chief.
- (g) Accumulated snow or ice on any public sidewalk not removed within 24 hours of the cessation of the event or a public sidewalk not kept clean of snow and ice between snow events.
- (h) Entering or utilizing any tennis court, basketball court, skateboard park or related area owned, operated, or maintained by the Village, or located within a public park of the Village, for any reason other than its intended purpose.
- (i) Allowing trees, bushes or other vegetation to grow so as to obstruct a traffic signal or signals or allowing trees, bushes or other vegetation to grow in violation of the Vision Triangle Ordinance.
- (j) Any act, omission, place, condition, or thing that would substantially annoy, injure, or endanger the comfort, health, peace, or safety of the public.

SECTION 23.04 Public Nuisances Affecting Fire-fighting and Law Enforcement Functions.

The following acts are hereby declared to be public nuisances affecting the official performance of fire-fighting and law enforcement functions:

- (a) The act of intentionally falsely reporting, in any manner, directly or indirectly, to any law enforcement officer, any member of a fire department, or any other officer, official, or employee of the Village, for the purpose of misleading that person, that a crime or a violation of this Code has been or is being committed or that there is a fire.
- (b) The act of interfering with accessibility to a fire hydrant by parking any motor vehicle within 10 feet of a fire hydrant or by piling, dumping, or placing any other obstructive material or object within 10 feet of a fire hydrant.
- (c) Interfering with, obstructing, or resisting any law enforcement officer or member of a fire department while that person is engaged in any act in his or her official capacity.

SECTION 23.05 Public Nuisances Offending Morals and Decency.

The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances offending public morals and decency:

- (a) The use of indecent, vile, profane, or obscene language or engaging in any indecent, lewd, lascivious, or obscene conduct.
- (b) All disorderly houses, and houses, buildings, or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse, or gambling except as allowed by State law.
- (c) The condition of being under the influence of alcohol or any other drug to such an extent as to disturb the good order and quiet of the Village or render oneself unable to care for his or her own safety or the safety of others.
- (d) Any act, omission, place, condition, or thing that would greatly offend the public morals or decency.

SECTION 23.06 Loitering.

- (a) **Loitering for Improper Purposes.** No person shall loiter or lounge in any public street or highway or alley or in any other public place or on any private premises without invitation from the owner or occupant thereof for any immoral, illegal or improper purpose or insult or disturb any person by any act, gesture or language.
- (b) **Obstruction of Highway by Loitering.** No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

- (c) **Obstructions of Traffic by Loitering.** No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public places within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of said public streets, alleys, sidewalks, street crossings and bridges or other public places by persons passing along and over the same.
- (d) **Loitering After Being Requested to Move.** No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant after being requested to move by any police officer or by any person in authority at such places
- (e) **Loitering in Public Places.** No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any police officer, proprietor of the place of business or by any person in authority at such place. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

SECTION 23.07 Dumps and Junked Vehicles.

- (a) **Definitions.** For purposes of this section and section 23.08, the following definitions shall apply:
 - (1) **Abandoned Vehicle.** Any vehicle left unattended for more than 48 hours on any public street or grounds, or on private property where parking is prohibited, limited or restricted, without the permission of the owner or lessee. A vehicle shall not be abandoned if it is left unattended on private property out of public view by commission of the owner or lessee, or if the vehicle is in an enclosed building or appropriate storage place maintained in a lawful place and manner authorized by the Village.
 - (2) **Dump.** Deposits on property of any garbage, rubbish, miscellaneous wastes, or other substances that may contain disease germs, may be scattered by the wind, or may decompose or become filthy, noxious, unhealthful or unsightly.
 - (3) **Junk.** Discarded property, including vehicle parts, inoperable or unlicensed vehicles, trucks, tractors, refrigerators (unless displayed for sale on the premises of the owner or securely locked and fastened), furnaces, washing machines, stoves, machinery, machinery parts, bricks, cement blocks, or other debris that tends to depreciate property value or impair aesthetic values.
 - (4) **Junked Vehicle.** A disassembled, inoperable, unlicensed, or unregistered vehicle.

- (5) **Owner.** The registered owner of a vehicle, or the lessee of a vehicle if the vehicle is registered or required to be registered by the lessee under Ch. 341, Wis. Stats.
- (6) **Vehicle.** Any motor vehicle, trailer, semitrailer or mobile home.
- (b) **Dumps.** No person or entity may permit on his, her or its land a dump. This subsection shall not prohibit the maintenance of garden compost piles; however, only one garden compost pile is permitted on any residential lot.
- (c) **Junk.** Except as otherwise provided in this section, no person or entity may keep junk on his, her or its property except in an enclosed building which provides a screen from public view.
- (d) **Junked Vehicles.** No person or entity may allow a junked vehicle to remain on any public or private property, including any highway, where such junked vehicle is not within an enclosed building for a period greater than five days unless a permit is obtained from the Village Administrator/Clerk-Treasurer. The Village Administrator/Clerk-Treasurer shall not issue such permit unless it is first determined by the Village Administrator/Clerk-Treasurer that the vehicle is in the process of being repaired. Such permit shall be granted for a period of not more than six months. Only one permit per lot may be in effect at any given time. The provisions of this subsection shall not apply to automobile sales or repair businesses operated within a properly zoned area.

SECTION 23.08 Disposition of Abandoned Vehicles.

- (a) **Purpose.** The Village Board declares it to be a public nuisance for any person to leave unattended any vehicle on any public highway or private or public property for such time and under such circumstances as to cause the vehicle to be considered abandoned..
- (b) **Impoundment Procedure.** Any abandoned vehicle shall be impounded pursuant to the provisions of this section.
 - (1) Any police officer who discovers an abandoned vehicle shall cause the vehicle to be removed to a suitable place of impoundment by a towing service. Upon impoundment of the vehicle, the officer shall notify the Chief of Police of the abandonment and the location of the impounded vehicle.
 - (2) Within 24 hours of removal and impoundment, the Police Department shall notify the registered owner of the vehicle at his last known address, and all lienholders of record for the vehicle, that the vehicle has been abandoned and impounded.
 - (3) The notice sent by the Police Department shall be sent by certified mail (with a copy by regular mail) and shall inform the owner and the lienholders that they have 10 days after notice has been received, or returned as undeliverable, to reclaim the vehicle upon payment of all accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned vehicle and the place where the vehicle is

being held and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall further state that failure of the owner or lienholders to exercise their rights to reclaim the vehicle shall be deemed a waiver of all right, title and interest in the vehicle and consent to the sale of the vehicle.

(c) **Sale Process.**

- (1) Each abandoned vehicle not reclaimed by its owner within the time period specified above shall be sold. The sale shall be conducted by public auction. At such auction, the highest bid for any such motor vehicle shall be accepted.
- (2) To give notice of sale, a public notice shall be posted by the auction service employed by the Village to conduct the sale or the Police Department at the office of the Village Police Department and three other public places within the Village limits. The notice shall be in the same form as the certified mail notice sent to the owner and lienholders of record.

(e) **Completion of Sale.**

- (1) Upon sale of an abandoned vehicle, the Police Department shall first apply the sale proceeds to the costs of impoundment and the expenses of the sale. If proceeds remain after the costs of impoundment and sale have been satisfied, the remaining proceeds shall be delivered to the Village general fund.
- (2) Upon sale of an abandoned vehicle, the Village shall supply the purchaser with a completed form designed by the Department of Transportation enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the impound storage area but shall pay the actual cost of storing the vehicle for each day the vehicle remains in storage after the second business day subsequent to the sale date. If the purchaser does not pick up the vehicle within 10 days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle may be sold again.
- (3) Within five days after the sale or disposal of a vehicle as provided in this section, the Village shall advise the Department of Transportation of the sale or disposition on a form supplied by the Department.

(f) **Costs of Impoundment.** The owner of any abandoned vehicle, except a stolen vehicle, is responsible for all costs of towing, impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the municipality against the owner. Whether or not the municipality recovers the cost of towing and enforcement, the municipality shall be responsible to the towing service for requisite towing service and reasonable charges for impoundment.

(g) **Immediate Disposition of Certain Vehicles.** The provisions of this section shall not apply if the Chief of Police, or his designee, determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle.

In this situation, the vehicle may be junked or sold by the Village upon the expiration of the impoundment period upon determination by the Chief of Police that the vehicle is not stolen or otherwise wanted for evidence or other reasons.

SECTION 23.09 Abatement.

- (a) **Complaint and Inspection of Premises.** Whenever a complaint is made by anyone to the Village President, a law enforcement officer, or any other public official that a violation of this chapter has occurred or is occurring, a law enforcement officer, health officer, fire inspector, weed commissioner, building inspector, or other officer, as appropriate, shall be promptly notified and shall forthwith inspect or cause to be inspected the premises, conduct, or condition complained of.
- (b) **Summary Abatement of Nuisances.**
 - (1) If the inspecting officer determines that a public nuisance exists, the inspecting officer may serve a notice on the person or persons violating this chapter. The officer shall post a copy of the notice on the premises where the violation is occurring. Such notice shall direct the person or persons violating this chapter to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the person or persons violating this chapter.
 - (2) If the nuisance is not abated within the time provided, the inspecting officer shall cause the abatement or removal of the nuisance. The costs of such abatement or removal shall be charged to the person or persons violating this chapter.
- (c) **Abatement by Court Action.** If the inspecting officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to require immediate abatement, he or she may file a written report of his or her findings with the Village President, who may cause an action to abate such nuisance to be commenced in Circuit Court in accordance with the provisions of Wisconsin law.
- (d) **Citations.** In addition to, or instead of, any other action taken by the Village, an officer may issue a citation or citations for the violation of any provision of this chapter. Unless otherwise provided in this Chapter, all violations shall be subject to the penalties set forth in section 1.09 of this Code of Ordinances.
- (e) **Other methods not excluded.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village by any means consistent or in accordance with Wisconsin law.