

CHAPTER 12

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PUBLIC NUISANCES

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

12.02 DEFINITIONS.

(1) **PUBLIC NUISANCE.** 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.

(2) **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 sub. (1) of this section:

(a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

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

(c) 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.

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

(e) Privy vaults and garbage cans which are not flytight.

(f) All noxious weeds and other rank growth of vegetation.

(g) All animals running at large.

(h) 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 sensitivities or to threaten or cause substantial injury to property in the Village.

(i) The pollution of any public well or cistern, stream or other body of water by sewage, creamery or industrial wastes or other substances.

(j) 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.

(k) All abandoned wells not securely covered or secured from public use.

(l) 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.

(3) **PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.** The following acts, omissions, places, conditions and things are hereby specifically declared to be

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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 sub. (1) of this section.

(a) 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.

(b) All gambling devices and slot machines.

(c) 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 Village Code.

(d) 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.

(e) 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.

(4) 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 provisions of sub. (1) of this section:

(a) 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.

(b) All buildings erected, repaired or altered within the fire limits of the Village in violation of the provisions of the ordinances of the Village, relating to materials and manner of construction of buildings and structures within said district.

(c) 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.

(d) 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. Any such obstruction which falls within a vision clearance triangle extending 25 feet horizontally along each street line from their intersection and within a vertical clearance of 6 feet shall be presumed to be a violation of this subsection. Despite such presumption, the Chief of Police may except trees from the requirements of this section when such trees have been defoliated to provide a vertical clearance of 6 feet and when, in the discretion of the Chief of Police, such trees by their size or number do not constitute an obstruction which would affect traffic safety to a point where removal would be advisable.

(e) All limbs of trees which project over and less than 8 feet above the surface of a public sidewalk, or 14 feet above the surface of the portion of the street or alley traveled by vehicles.

(f) All use or display of fireworks except as provided by the laws of the State

of Wisconsin and ordinances of the Village.

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

(h) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.

(i) All loud, discordant and unnecessary noises or vibrations of any kind.

(j) 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.

(k) 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.

(l) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(m) 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.

(n) 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.

(o) Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.

(p) All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in Sec. 8.04 of this Code.

(5) PUBLIC NUISANCES, OTHER. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending the comfort, health, repose or safety of the public, but such enumeration shall not be construed to exclude other nuisances within the definition of sub. (1) of this section:

(a) All owners of property located within a residential district of the Village who fail to keep their premises free of litter, trash or rubbish.

(b) All owners of property located within a residential district of the Village who allow their property to accumulate trash, litter or rubbish.

(c) "Litter" as used in this section includes, but is not limited to, trash and waste paper lying scattered about; and an untidy accumulation of objects of any kind.

(d) "Trash" as used in this section includes, but is not limited to, some thing or object worth little or nothing, and some thing or object in a crumbled, broken or inoperable condition.

(e) "Rubbish" as used in this section includes, but is not limited to, waste materials and refuse of every character and kind, collected or accumulated.

12.03 ABATEMENT OF PUBLIC NUISANCES.

(1) ENFORCEMENT. It shall be the duty of the Chief of Police and Health Officer to 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.**

(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 President may direct the Chief of Police 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 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 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 having the duty of enforcement shall cause the abatement or removal of such public nuisance.

(3) **ABATEMENT BY COURT ACTION.** 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 file a written report of his findings with the Village President who, upon direction of the Village Board, shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Lafayette County in accordance with the provisions of Ch. 823, Wis. Stats.

(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.

12.04 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.

12.05 JUNKED AUTOMOBILES, ETC.

(1) **STORAGE OF AUTOMOBILES RESTRICTED**

(a) No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers or appliances shall be stored or allowed to remain in the open upon public or private property within the Village for a period exceeding 5 days if upon public property, or for a period exceeding 30 days if upon private property.

(b) Any business engaged in automotive sales or repair may retain such vehicles in the open, on private property, for a period not to exceed one year, after which such vehicles must be enclosed by a screening or live planting to be approved by the Plan Commission.

(2) DEFINITIONS.

(a) The term "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers" as used in this section is defined as follows: 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) The term "unlicensed - motor vehicles, truck bodies, tractors or trailers" as used in this Code is defined as follows: motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.

(c) The term "motor vehicle" is defined in §340.01(35), Wis. Stats.

(d) The term "appliance" is defined as any stove, washer or refrigerator which is no longer operable in the sense for which it was manufactured.

(3) Whenever the Police Department shall find any such vehicles or appliances placed or stored in the open upon public property within the Village, they shall cause such vehicle or appliance to be removed by a junk or salvage yard and stored in such junk or salvage yard subject to reclamation by the owner for a period of 30 days, at the end of which time such junk or salvage yard shall dispose of such vehicle or appliance.

(4) Whenever the Police Department shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the Village, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this section. If said vehicle or appliance is not removed within 5 days, the Police Department shall cause to be issued a warrant for the arrest of the property owner of the property upon which said vehicle or appliance is stored.

(5) Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a forfeiture not to exceed \$50 plus the costs of said prosecution, and upon default of payment of such forfeiture and costs shall be imprisoned in the Lafayette County Jail until such forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation of this section continues shall be deemed a separate offense.

12.06 TREES AND SHRUBS.

(1) TRIMMING.

(a) The owner or occupant of any private property shall keep all trees standing on such property so trimmed that no bough or branch thereof shall hang lower than 8 feet above the surface of a public sidewalk or 14 feet above the surface of the portion of the street or alley traveled by vehicles. Shrubs shall be kept trimmed so that they do not overhang any street, alley or sidewalk. Provided, however, that the Street Committee may allow newly planted trees or shrubs to remain untrimmed as long as they do not interfere with persons using the sidewalk or as long as they do not obstruct light from any street light.

(b) The owner or occupant of any private property shall remove or cause to be removed any dead tree or dead or broken bough or branch on a tree standing on such private property and overhanging any public street, road, alley or sidewalk.

(c) The owner or occupant of any private premises abutting on any public street, road, alley or terrace may himself maintain and protect any tree standing on such street, road, alley or terrace, providing that in doing so he complies with the provisions of this section.

(2) DUTCH ELM DISEASE CONTROL.

(a) The following are hereby declared to be public nuisances wherever they may be found within the Village:

1. Any living or standing elm tree or part thereof infected with the Dutch Elm Disease fungus (*Ceratocystis Ulmi*) or Elm Blight (Phloem Necrosis) or which harbors any of the elm bark beetles.

2. 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 insecticide.

(b) No person shall permit any public nuisance as defined in par. (a) to remain on any premises owned or controlled by him within the Village.

(c) The Street Committee shall inspect all premises and places within the Village at least once a year to determine whether any public nuisance as defined in par. (a) exists thereon, and shall also inspect any elm tree reported or suspected of being infected with the Dutch Elm Diseases or any elm bark bearing material reported or suspected by an individual to be infected with the elm bark beetle. The Street Committee shall have the authority to enter upon private property at all reasonable times for the purpose of carrying out the provisions of this section.

(d) No person shall keep or transport within the Village any bark bearing elm wood or material without written permission from the Street Committee.

(e) Abatement. A tree standing in any public street, road, alley, terrace, park or any property owned by the Village which is found to be infected with the Dutch Elm Disease or Phloem Necrosis shall be removed and disposed of as soon as possible to prevent the spread of the diseases. The cost of such removal shall be borne by the Village. If a tree infected with the Dutch Elm Disease or Phloem Necrosis is found in private property within the existing corporate limits of the Village or within any newly annexed property, the Street Committee shall proceed to abate such public nuisance in accordance with the provisions of Secs. 12.03 and 12.04 of this Code. A portion of the cost of such abatement shall be borne by the property owner as follows:

The owner shall pay \$4 per inch of diameter in accordance with measurements made by the Street Committee. In addition, the owner shall remove the tree and stump (or debark the stump if not removed) within 30 days. If not removed by the owner within 30 days, the Street Committee shall order such removal and/or debarking, in which case the cost of same shall be borne by the property owner.

Provided, however, that the entire cost of abatement for Dutch Elm Disease or Phloem Necrosis for any newly annexed property shall be borne by the owner of such property.

(f) No damage shall be awarded to the owner for the removal of any elm tree, elm wood or elm material or any part thereof by the Village.

(g) Accounting. The Street Committee shall keep an account of the costs of the work done in abatement of Dutch Elm Diseases and shall, prior to November 10 in each year, make and file a report with the Clerk-Treasurer of all work done, certifying the parcels of land involved, and the costs attributable thereto.

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(3) EMERGENCIES. The Village Street Department shall be responsible for tree work of an emergency nature, such as fallen branches, branches interfering with wires, and terrace trees which fall on private property.

12.07 PENALTIES. Any person who shall violate any provisions of this chapter or any order, rule or regulation made hereunder shall be subject to the penalty set forth in the VILLAGE OF BELMONT SCHEDULE OF PENALTIES which is part of the Village Ordinances or such other penalty or amount as the Court or Village shall deem appropriate in accordance with Section 20.04.