

CHAPTER 15

Public Nuisances

- 15.01 Nuisances Defined
- 15.02 Summary Abatement of Specific Nuisances
- 15.03 Abatement After Notice of Specific Nuisances
- 15.04 Trees which are Public Nuisances
- 15.05
- 15.06 Vehicle Abandonment Prohibited; Removal and Disposal; Motor Vehicle Sales and Repairs on Residential Property; Accumulation of Used Motor Vehicles
- 15.07 Recreational Vehicles
- 15.08 Unsafe, Unsanitary, Hazardous and Unightly Premises
- 15.09 Communicable Diseases and Quarantine and Isolation Regulations
- 15.10 Human Health Hazards and Property Violating Codes or Health Orders
- 15.11 Penalty
- 15.12 Junk or Discarded Property
- 15.13 Rummage Sales Regulated

15.01 NUISANCES DEFINED. Where no provision is made herein defining what are nuisances and how the same may be removed, abated, or prevented, those offenses which are known to the common law of the land and the statutes of the State of Wisconsin as nuisances may, in case the same exist within the Village limits, be treated as such and proceeded against as is provided in Section 15.03 hereof, or in accordance with other provisions of law.

15.02 SUMMARY OF ABATEMENT OF SPECIFIC NUISANCES. Whenever any nuisance defined under this section shall be found within the Village, the Health Officer, Police officer, or any Trustee may in his discretion, cause the same to be summarily abated in such manner as he may direct. It shall be unlawful within the Village to:

- (1) **Spitting.** Spit, expectorate, or deposit any sputum, spittle, saliva, phlegm, mucus, tobacco juice, or wads of tobacco upon the floor or stairways of any part of any theater, public hall or building, or upon the floor of any part of public conveyance, or upon any public thoroughfares.
- (2) **Articles which Occasion a Nuisance.** Bring into the Village or keep therein for sale or otherwise, either for food or for any other purpose or purposes whatever, any animal, dead or alive, matter, substance, or things which shall be or which shall occasion a nuisance in said Village, or which shall be dangerous or detrimental to health.
- (3) **Sale of Unwashed Fabrics.** Sell or offer for sale any rags, fabrics, or wearing apparel, except in a thoroughly clean condition.
- (4) **Noises.** Conduct a business between 8:00 p.m. and 6:00 a.m. in a manner as to cause or to permit any loud or sharp noises or concussion, except under a permit from the Health Officer. Such permits shall be issued by the Health Officer only when it appears to his satisfaction that the conduct of such business between said hours will not be injurious to the health of those residing in the vicinity of the place where such business is conducted; provided, however, that the Health Officer may grant such permit when it appears to his

satisfaction that the work proposed during the hours prohibited is necessary for the public welfare.

- (5) **Dumping.** Place, throw, or leave any slops, dirty water, or other liquid or offensive smell, or otherwise nauseous or unwholesome, or any dead carcass, carrion, meat, fish, entrails, manure, or other nauseous or unwholesome matter or substance, or any rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels, or substance whatsoever, or drain or pour or permit to drain or flow nauseous or unwholesome fluid, oil, kerosene, benzene, or other similar oil or oily substance or liquid, in or upon a public place or thoroughfare, or upon any lot or land of another within the Village.
- (6) **Outdoor Wood Furnaces.** Notwithstanding anything to the contrary set forth in this Section or this Code, no person shall construct, install, operate, or use or suffer to construct, install, operate, or use an or any outdoor wood furnace to provide heat to any building or structure or equipment upon any property in the Village.

15.03 ABATEMENT AFTER NOTICE OF SPECIFIC NUISANCES. Whenever any nuisance defined under this section shall be found within the Village, the Health Officer, Police officer, or any Trustee may cause the same to be abated in such manner as he may direct. However, it shall be the duty of the enforcing official first to give notice in writing to the person owning, occupying, or in charge or control of any premises wherein such public nuisance shall be, to abate and remove the same at his own expense, within such reasonable time as the enforcing official shall direct. Anyone causing or permitting any nuisance specified in this section shall not be subject to penalty until the expiration of the time specified in such notice. It shall be unlawful within the Village to:

- (1) **Buildings, Etc., which Emit Offensive Odors.** Maintain any gas plant factory, yard, store house, building, or structure of any kind, tallow, chandler's shop, soap factory, tannery, distillery, livery stable, cattle yard, shed, barn, packing house, slaughter house, rendering establishment, coal pile, rubbish accumulation, stagnant pool, sink hold, or other thing which shall emit foul or offensive odors, gases, effluvia, or stenches, or which shall be dangerous or prejudicial to the public health.
- (2) **Certain Public Garages.** Maintain any public garage, used car lot, automobile service station, parking lot, or space which shall become noxious, foul, offensive, or dangerous and prejudicial to the public health or which shall seriously or permanently interfere with life or safety by the testing or running of gasoline engines at various speeds, back-fire, or the emitting of smoke and gases, odors of gasoline, or oils of the stirring up of dusts and dirt.
- (3) **Location of Tanneries.** Erect or maintain a tannery in any location within the Village which is within six (6) blocks from a public or parochial school within said Village or in any location where the majority of buildings within a radius of six (6) blocks are devoted to residential purposes.
- (4) **Cutting of Weeds Causing Hay Fever.** Permit the pollution of any grasses or weeds which cause or produce hay fever in human beings. In order to prevent such pollination, none of the following grasses and no weeds of any kind shall be permitted to grow or stand more than one (1) foot high on any premises, to wit: meadow grass (poa annua), bull grass (paspalum vasyanum), Bermuda grass (capriola dectylon), smut grass

(sporabulus anugstus), Johnson grass (andropogen halapense), feather grass (leptochloa filiformia), foxtail grass (chaetochloa glauca), and cockspur grass (panicum crus-galli).

- (5) **Breeding Place for Flies.** Maintain on any premises any accumulation of rubbish, filth, or material of any kind whatsoever that is, or is likely to become a medium for the development of fly larvae, or is likely to become a breeding place for flies.
- (6) **Breeding Place for Rats.** Maintain on any premises any accumulation of rubbish, filth, or material of any kind whatsoever that is, or is likely to become, a breeding place for rats.
- (7) **Effluvia in Public Ditches.** Construct or maintain any private septic system, which shall emit effluvia, feces, noxious matter, or any liquid of offensive smell into any drainage ditch along any public street or highway, or any drainage ditch wherein the public has an easement through which natural surface water drains.
- (8) **Water in Public Ditches.** Construct or maintain any private water system, well, rain drainage, or any drain-tile system, which shall emit water into any abutting or neighboring property. Water may be discharged into a drainage ditch or where the Village has an easement through which natural surface water drains provided that the discharge pipe be terminated at the street or right-of-way line. If water is discharged onto a State or County highway right-of-way, a permit shall first be obtained from the appropriate agency.

15.04 TREES WHICH ARE PUBLIC NUISANCES.

- (1) **Certain Trees and Storage of Cut Elm Wood Prohibited.** The planting, preserving, and maintaining of cottonwood or other trees which are injurious and detrimental to the health of the community and all such other trees as may be liable to fall upon any sidewalk, street, or building near to such tree or which are hazardous or may result in injury to person or property because of a defective or diseased condition, or contagiously diseased trees, or the storage of cut elm wood, unless debarked, shall be deemed a public nuisance and are prohibited.
- (2) **Examination and Notice.** The Superintendent of Public Works may examine all trees, alive or dead, standing or fallen, and logwood piles, for the purpose of determining whether same are contagiously diseased. Such examination shall include the right to take samples from such trees and logwood piles for laboratory testing purposes. The Superintendent of Public Works shall give notice to the owner or owners of land in the Village whereon there are situated any trees, or tree conditions existing, or cut elm wood, unless debarked, declared by said Superintendent to be a public nuisance, and which are not maintained by the Village, to remove, prune, or spray or cause same to be removed, pruned, or sprayed within 10 days, excepting when said notice applies to the removal, pruning, or spraying of elm trees, such shall be done within five (5) days. The Superintendent of Public Works, if such notice is not complied with, shall cause such trees or cut elm wood, unless debarked, to be removed, pruned, or sprayed at the expense of the owner of the land whereon the same stand, and if such owner or his agent cannot be founding this Village such trees may be removed, pruned, or sprayed by said Superintendent of Public Works at the expense of the owner of such land without notice.

15.05

15.06 VEHICLE ABANDONMENT PROHIBITED: REMOVAL AND DISPOSAL; MOTOR VEHICLE SALES AND REPAIRS ON RESIDENTIAL PROPERTY; ACCUMULATION OF MOTOR VEHICLES.

- (1) **Vehicle Abandonment Prohibited.** No person shall leave unattended any motor vehicle, trailer, semi-trailer, or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance.
- (a) Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subsection (b) except that if the Chief of Police determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the municipality prior to expiration of the impoundment period upon determination by the Chief of Police that the vehicle is not wanted for evidence or other reason.
 - (b) Any abandoned vehicle shall be retained in storage for a period of 14 days after certified mail notice has been sent to the owner and lien holders of record to permit reclamation of the vehicle after payment of accrued charges. Thereafter the Village may dispose of any abandoned vehicle which is determined by the Chief of Police to have a value in excess of \$100.00 at a public auction. Any abandoned vehicle which is determined by the Chief of Police to have a value less than \$100.00 may be disposed of by direct sale to a licensed salvage dealer. Before any sale can be consummated, the Chief of Police must determine that the vehicle is not reported stolen. Within five (5) days after the disposal of a vehicle as herein provided, the Chief of Police shall advise the Division of Motor Vehicles in the Wisconsin Department of Transportation of such disposal on a form supplied by said division.
 - (c) The owner of any abandoned vehicle except a stolen vehicle is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Cost not recovered from the sale of the vehicle may be recovered in a civil auction by the Village against the owner.
- (2) **Auto Sales and Repairs.**
- (a) The owner of any property used or zoned for residential purposes in the Village pursuant to the Village Zoning Code may permit no more than a total of three (3) motor vehicles to be offered or exposed for sale on such property during any calendar year.
 - (b) No one shall offer or expose for sale a motor vehicle on a property used or zoned for residential purposes without the written permission of the owner of such property/
 - (c) No one shall offer or expose for sale a motor vehicle on property used or zoned for residential purposes during any calendar year where three (3) motor vehicles have been offered or exposed for sale on that property during the calendar year.
 - (d) The owner of any property used or zoned for residential purposes in the Village pursuant to the Village Zoning Code may permit no more than four (4) motor vehicles to be repaired on such property during any calendar year.
 - (e) No one shall repair a motor vehicle on any property used or zoned for residential purposes without the written permission of the owner of said property.

- (f) No one shall repair a motor vehicle on any property used or zoned for residential purposes during any calendar year where four (4) motor vehicles have been repaired on such property during that calendar year.
 - (g) The term “motor vehicle” as used in this section shall mean that term as it is defined by §341.266(4), Wis. Stats.
- (3) **Accumulation of Used Motor Vehicles.** No person except a licensee of a motor vehicle dealer’s license issued under the Wisconsin Statutes shall accumulate or store or allow to remain outside of any building on real estate located within the Village for a period of more than 10 days or dump, deposit, or otherwise abandon upon any property or upon any highway, street, road, alley, or way within the Village any used motor vehicles as motor vehicle is defined by the Wisconsin Statutes or any detached part or parts thereof for which no current registration fee has been paid under State Statutes or which, if paid, does not have properly attached thereto under State Statutes a current license plate or plates if so required and which is in condition which would mechanically prevent its immediate operation upon any public highway or its operation thereon would be in violation of the law. Each day that any used motor vehicle as herein defined or any detached part or parts thereof shall be accumulated or stored or allowed to remain contrary to these provisions shall constitute a separate and distinct offense. This section shall not apply to a licensed and registered special interest vehicle and parts regulated pursuant to §341.266(4), Wis. Stats.
- (4) **Penalties.** Any person violating subsection (1) of this section, in addition to the costs required under subsection (4), shall also be subject to the penalties provided in §15.09 of this Chapter. Any person violating subsection (3) of this section shall be subject to the penalties provided in §15.09 of this Chapter, excepting that the forfeiture for the first offense shall not be less than \$50.00 and a forfeiture for a second offense shall not be less than \$60.00.

15.07 RECREATIONAL VEHICLES.

- (1) **Definitions.** “Recreational Vehicles” for purposes of this ordinance are defined as motorized vehicles used on private or public property for individual or organized recreational purposes whether licensed or unlicensed. By way of illustration but not of limitation, “recreational vehicles” shall include snowmobiles, all-terrain vehicles, mini-bikes, motorcycles, motorized scooters, and motorized bicycles.
- (2) **Safety.** It shall be unlawful for any person to operate a recreational vehicle:
- (a) In a negligent manner, or
 - (b) Which is unsafe under prescribed federal or State standards, or
 - (c) Without proper safety attire or equipment under prescribed federal and State standards.
- (3) **Prohibited Use.** It shall be unlawful for any person to drive or operate a recreational vehicle upon private or public property (other than roads, driveways, business zoned parking lots, or public lakes.)
- (4) **Exceptions.** This section shall not apply to:
- (a) Licensed recreational vehicles operating on public streets;
 - (b) A dealer or repairer of recreational vehicles whose operation shall be limited to operation for demonstration or maintenance purposes on his own property.

15.08 UNSAFE, UNSANITARY, HAZARDOUS, AND UNSIGHTLY PREMISES. No person shall cause items to be placed at streetside before noon the day before the scheduled pick up under the Village Garbage Disposal Contract. Emptied receptacles shall be removed by 8:00 a.m. the day following garbage pickup.

- (1) The penalty provisions of 19.04, Village Code, shall not apply to violations of this subsection.
- (2) For the first offense, any person who shall violate the provisions of this section shall receive a written warning.
- (3) For a second offense at the same premises within one (1) year period of the date of the first offense, any person who shall violate the provisions of this sections shall, upon conviction, forfeit the sum of \$25.00 together with any costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County House of Correction until said forfeiture and cost are paid, but not exceeding three (3) days.
- (4) For a third and subsequent offense at the same premises within the same one (1) year period, any person who shall violate the provisions of this section shall, upon conviction, forfeit the sum of \$50.00 together with any costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County House of Correction until said forfeiture and costs are paid, but not exceeding six (6) days.

15.09 COMMUNICABLE DISEASES AND QUARANTINE AND ISOLATION REGULATIONS.

- (1) **Communicable Diseases; General.** The Village Health Officer shall perform all duties prescribed to him or her by the State of Wisconsin and the State Department of Health and Family Services regarding contagious diseases, particularly, but not limited to Ch. 252, Wis. Stats. And Ch. HFS 145, Wis. Adm. Code, and “local health officer” as used within the Wisconsin Statutes and Wisconsin Administrative Code shall mean the Village Health Officer, all such Statutes and Code provisions pertaining to contagious diseases being specifically incorporated herein by reference, as amended from time to time, and as such constituting local direction and authority for the Village Health Officer and Health Department.
- (2) **Control, Isolation, and Quarantine Measures for Communicable Diseases Other Than Tuberculosis.** The Village Health Officer shall undertake such measures for the control of communicable diseases, other than tuberculosis, but also including those diseases as are specifically set forth in Appendix A to Ch. HFS 145, Wis. Adm. Code, as set froth under §252.06, Stats., and §145.06, Wis. Adm. Code, specifically, but not limited to measures to direct a person known to have or suspected of having a contagious disease to participate in such programs, tests, evaluations, conduct cessation, isolated or segregated residence, placement and the like as set forth under §145.06(4), Wis. Adm. Code, and in the absence of compliance with such directive, to petition a court of record to order compliance with such directive, as set forth under §145..06(5), Wis. Adm. Code.

- (3) **Control, Isolation and Quarantine Measures for Tuberculosis.** The Village Health Officer shall undertake such measures for control of tuberculosis, as set forth under §252.07, Stats., and §145.10, Wis. Adm. Code, specifically, but not limited to measures to order the confinement to a facility of an individual having or suspected of having tuberculosis, upon those conditions set forth under §252.07(8)(a), Stats., and §145.10(6)(d), (e) and (f), Wis. Adm. Code, and to petition the court for an extension of such confinement as necessary and pursuant to those conditions set forth under §252.07(9)(a), Stats., and §145.10(7), Wis. Adm. Code.
- (4) **Communicable Diseases Information to the Public and to Schools.** The Village Health Officer may advise the public and any individual persons of the provisions of this Section and the Wisconsin Statutes and the Wisconsin Administrative Code provisions referenced and incorporated herein, in order to assist the Health Officer in the performance of duties pertaining to the protection against contagious diseases, including, but not limited to the provisions of §252.19, Stats., providing that no person who is knowingly infected with a communicable disease may willfully violate the recommendations of the local health officer or subject others to danger of contracting the disease and that no person may knowingly and willfully take, aid in taking, advise or cause to be taken, a person who is infected or is suspected of being infected with a communicable disease into any public place or conveyance where the infected person would expose any other person to danger of contracting the disease. The Village Health Officer may further specifically advise schools, teachers, school nurses and principals of the provisions of §252.21, Stats., providing in part at sub. (1), that a local health officer should be notified of the existence or suspicion of the existence of the presence of a communicable disease in a school, and the provisions of sub. (6), thereof, providing in part that any teacher, school nurse, or principal may send home pupils who are suspected of having a communicable disease or any other disease the State Department of Health and Family Services specifies by rule.
- (5) **Violations.** Any person who willfully violates or obstructs the execution of any term or provision of this Section or any State Statute, Code or Rule, County, Village ordinance or Departmental order under this Section, Ch. 252, Wis. Stats and/or Ch. HFS 145, Wis. Adm. Code, relating to the public health, for which no other penalty is prescribed, shall, in addition to being subject to all other legal and equitable actions and relief available to the Village of Hales Corners, be subject to the penalty provisions set forth under §19.04 of this Code.

15.10 HUMAN HEALTH HAZARDS AND PROPERTY VIOLATING CODES OR HEALTH ORDERS. §§254.01 Definitions, 254.55 Definitions, 254.56 Public Places, 254.59 Human Health Hazards, 254.593 Authority of the department and local health departments, and 254.595 Property violating codes or health orders, of the Wisconsin Statutes, as amended from time to time and as they apply to a village, be and the same are hereby incorporated into this Code by reference.

15.11 PENALTY. Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 19.04 of this Code.

15.12 JUNK OR DISCARDED PROPERTY.

- (1) No person or other entity shall store or allow to be stored open to the elements and not in an approved structure on any lot, except under conditional or special use permit where

specifically approved, any junk or discarded property including, but not limited to, refrigerators and other appliances; toilets, sinks, and other plumbing fixtures; furnaces; machinery or machinery parts; junked vehicles or vehicle parts not otherwise regulated by this Code; wood; construction materials; amusement park devices; barrels; old iron; chain; brass; copper; tin; lead; other base metals; paper clippings; rags; rubber; glass; bottles or similar items; and any other debris, equipment, or implement.

- (2) Any person, firm, partnership, or corporation violating any of the provisions of this section shall upon conviction be subject to the penalty provisions of §19.04 of this Code. In addition to such penalties, upon failure of any person or entity to remove such junk or discarded property after service by the Building Inspector of an order to do so within 10 days from the date of the order, the Village may obtain the removal of such junk or discarded property and charge same as a special charge against the subject property pursuant to §66.60(16), Wis. Stats. In addition to all of the aforesaid remedies, the Building Inspector may cause any abatement procedure to be commenced and may seek injunctive relief by Circuit Court action in order to obtain compliance with this Section.

15.13 RUMMAGE SALES REGULATED. The owner or occupant of any residential zoned or used property in the Village may conduct not more than three (3) rummage sales in the aggregate on such property during any calendar year, and such sale shall be limited to a period of not more than 72 consecutive hours within any one week. The definition of "Rummage Sale" shall include, but not be limited to, events also identified as "garage sale", "estate sale", "moving sale", or "auction".