

CHAPTER 25

NUISANCES

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CHAPTER 25

NUISANCES

ARTICLE I – GENERALLY

25-1-1 **SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the Village, for any person, firm or corporation within the limits of the Village to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place, to the prejudice of others.

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome, or impure, the water of any spring, river, stream, pond or lake, well, public or private, to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I) **Bodies of Water.** To create any condition, through the improper maintenance of a swimming pool or wading pool, or by causing any action which alters the condition of a natural body of water or ground surface, so that it harbors mosquitoes, flies or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(J) **Storing Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, including, but not limited to tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious and dangerous to the health of individuals or the public.

(K) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply, or from one underground stratum to another.

(L) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease or has bought or leased a residence or other real property, when the harassment, intimidation or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(M) **Business.** To establish, maintain and carry on any offensive or unwholesome business or establishment within the limits of the Village or within the distance of **one (1) mile** beyond the Village limits. **(65 ILCS 5/11-42-9)**

(N) **Filthy Premise Conditions.** To keep or suffer to be kept in a foul, offensive, nauseous or filthy condition, any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by him, or any railroad car, building, yard, grounds, and premises belonging to or occupied by him.

(O) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(P) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, including but not limited to paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the Village from any moving vehicle, or to be thrown by any person, or to throw from a moving vehicle and to remain thereon.

(Q) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

(R) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(S) **Bringing Nuisances into the Village.** To bring into the Village, or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance or thing which shall be a nuisance or which shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(T) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive or putrid, nor permit any such liquid to be discharged, placed, thrown or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(U) **Unplugged Wells.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged, after such well is no longer used for the purpose for which it was drilled.

(V) **Burn-Out Pits.** To construct or operate any salt water pit or oil field refuse pit, commonly called a "burn-out pit", so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse.

(W) **Discarded Machinery.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well, or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(X) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(Y) **Bulk Waste.** To deposit or accumulate or to cause to deposit or accumulate any bulk waste upon any public or private property within the Village that is not secured in a building which prevents the exposure of the bulk waste to the elements. For the purpose of this paragraph the term "bulk waste" shall mean the following:

- (1) Appliances, including but not limited to: washers, dryers, refrigerators, freezers, stoves, televisions, and water heaters; or
- (2) Indoor furniture, including but not limited to: bed springs, mattresses, carpets, couches, chairs, and cushions; or
- (3) Other items of personal property not designed for exterior use.

(Ord. No. 2003-02; 01-06-03) (65 ILCS 5/11-60-2)

(Z) **Generally.** To commit any act which is determined by the Village Board to be a nuisance or is otherwise declared a nuisance by any Illinois statute, rule or regulation.

Nothing in this Section shall be construed to prevent the corporate authorities of this Village from declaring what shall be nuisances, and abating them within the Village limits.

25-1-2 **NUISANCES DETRIMENTAL TO HEALTH GENERALLY.** No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained, or operated in the Village if such use, keeping or maintenance of the same shall be dangerous to health or promote diseases. **(65 ILCS 5/11-20-5) (Ord. No. 2001-03; 07-02-01)**

25-1-3 **NOTICE TO ABATE.** Whenever the Village Board, Mayor or Police Chief finds that a nuisance exists, he shall direct the Village Clerk to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) A statement suggesting how such abatement might be accomplished;
- (E) The date by which abatement must be completed;
- (F) A statement indicating that if the nuisance is not abated by the date prescribed this Municipality will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 **ABATEMENT OF NUISANCE BY VILLAGE; UNKNOWN OWNER.** It shall be the duty of the Chief of Police or a designated official to proceed at once upon the expiration of the time specified in the notice to cause such nuisance to be abated, provided, however, that whenever the owner, occupant, agent, or person in possession or control of any premises in or upon which any nuisance may be found in unknown or cannot be found, the Chief of Police or a designated representative shall proceed to abate such nuisance without notice. In either case, the expense of such abatement shall be paid by the person who may have created or suffered such nuisance to exist, in addition to any penalty or fine.

25-1-5 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The Village shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

(65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)

(In General Ord. No. 2001-03; 07-02-01)

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the Village including the ditch or street area along the owner or occupant's property. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant, agent or person in possession or control of the premises, or to any member of his household of the age of **thirteen (13) years** or older found on the premises or by mailing such notice, by first class mail, to the last known residence address of the owner. Proof of receipt of the notice by the owner, occupant, agent or person in possession or control is not necessary. **(Ord. No. 2001-03; 07-02-01)**

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

25-2-6 **LIEN.** Charges for such weed removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village after the lien is in effect for **sixty (60) days**.

(65 ILCS 5/11-20-6 and 5/11-20-7)

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **thirteen (13) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises. **(Ord. No. 2001-03; 07-02-01)**

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

25-3-7 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

(65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicated a different meaning.

"INOPERABLE MOTOR VEHICLE" means any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed; or whose engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power or so treated that driving the vehicle on a highway would cause a violation of Section 12-101(a) of the Illinois Vehicle Code (**625 ILCS Sec. 5/12-101(a)**) or is without a current valid registration and current valid license plates. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations, nor shall such term apply to any motor vehicle that is kept within a building when not in use or to any operable historic vehicle over **twenty-five (25) years** of age, to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles or a motor vehicle in the possession or control of the Village which has been seized or forfeited pursuant to the Illinois Compiled Statutes (ILCS). A motor vehicle rendered incapable of being driven under its own power for more than **twenty-one (21) days** shall be presumed to be permanently incapable of being driven under its own motor power. (**Ord. No. 03-12; 11-03-03**)

25-4-2 **DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property, not kept in a building are hereby declared to be a nuisance. (**Ord. No. 99-03; 07-06-99**)

25-4-3 **NOTICE; FAILURE TO DISPOSE.** The Police Department shall notify any person to dispose of any inoperable vehicles under his or her control. If that person fails to dispose of such inoperable vehicles, after **seven (7) days** from the issuance of the notice, the Police Department shall cause an ordinance violation citation to be issued. (**Ord. No. 2004-09; 10-04-04**)

25-4-4 **VIOLATIONS AND PENALTIES.** Any person failing to obey a notice to dispose of any inoperable motor vehicle shall, upon conviction, be fined in an amount according to the provisions of **Section 1-1-20** of this Code, except that the minimum fine shall be double the minimum as prescribed by **Section 1-1-20(A)**. Each day such person fails to dispose of any inoperable motor vehicle shall constitute a separate offense and shall be punishable as such. (**Ord. No. 2002-02; 04-08-02**)

ARTICLE V - DANGEROUS AND UNSAFE PROPERTIES

25-5-1 **ADOPTION BY REFERENCE.** The Village may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the Village and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those building. Therefor, the Village does hereby adopt by reference the applicable provisions of Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1 governing dangerous and unsafe buildings.

ARTICLE VI - PENALTIES AND SPECIAL ASSESSMENT

25-6-1 **SPECIAL ASSESSMENT.** In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq., and (iv) a lien has been filed of record by the municipality in the office of the Recorder of Deeds in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.