

CHAPTER 13

NUISANCES

Subject

Division

Nuisance Ordinance

13-1

DIVISION 1

NUISANCE ORDINANCE

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13-1-1: NUISANCES DECLARED UNLAWFUL:

It shall be unlawful and a violation of this Division for any person to willfully or negligently create, erect, maintain or, permit a nuisance to exist anywhere within the Village.

13-1-2: NUISANCE DEFINED, GENERALLY:

Each of the following is hereby declared a nuisance. Any thing, act, omission, occupation or condition which shall exist or continue for such length of time as to:

- A. Substantially annoy, injure or endanger the health, safety, peace or welfare of the public; or
- B. In any way render the public insecure in life or property; or
- C. Greatly offend the public morals or decency, or
- D. Unlawfully and substantially interfere with, obstruct or render dangerous for passage any street, sidewalk, alley, navigable body or other public way or place.

13-1-3: OBSTRUCTIONS:

Every obstruction or encumbrance of any street, alley, lane, avenue, sidewalk, public way, crossing, or public square within the corporate limits of the Village, by means of firewood, lumber, barrels, boxes, manure, merchandise, vending machines, or other thing or things, is hereby declared to be a nuisance.

13-1-4: FOUL ODORS, FILTH:

It is hereby declared to be a nuisance and a danger to the health, safety, welfare, peace and comfort of the Village and its residents for any person:

A. Businesses. To conduct any business or to use any premises so as to create an offensive or foul odor which taints the air and renders it nauseous to persons in the vicinity; or

B. Animals. To keep or maintain any animals in an unclean or filthy manner or surroundings, or to keep or maintain any animal from which emit any particularly foul or offensive odors; or

C. Animal Carcasses. To cause or permit to be collected or to remain upon any premises or place any animal carcass or any offal, filth, excretion or other noisome or noxious animal matter of any kind which is, or is likely to become, putrid, foul or offensive; or

D. Vegetable Matter. To cause or permit to be collected or to remain upon any premises or place any slop or other vegetable matter of any kind which is, or is likely to become, putrid, foul or offensive; or

E. Cellars, Vaults, Privies. To cause or permit any cellar, vault, cistern, drain, privy, yard or other premises whatsoever to become, from any cause, foul or offensive or injurious to the public health; or

F. Stagnant Water. To permit to be collected or to stand upon any premises any foul or stagnant water of any kind; or

G. Stables and Pigsties. To locate or maintain, or permit to exist or remain, anywhere within the Village any stable or pigsty; or

H. Foul or Noxious Substances. To use, deposit or keep any property, substance or thing emitting or causing any foul, offensive, noisome, nauseous or noxious odor, effluvia or stench particularly repulsive to the physical senses and which annoys, discomforts or endangers the welfare, health or safety of any person.

13-1-5: RUBBISH, DRY GRASS:

It is hereby declared a menace to the public safety and health and a nuisance for any person to cause or permit:

A. Rubbish, Rags. The deposit or accumulation of any refuse, oily rags, rubbish or other materials or substances of any kind, so as to constitute a fire hazard; or

B. Dry Grass, Vegetation. The deposit, accumulation, existence or growth upon any property of any dry or dead weeds, grass, vegetation or other like substances of any kind, so as to constitute a fire hazard.

13-1-6: WEEDS:

It is hereby declared a menace to the public safety and health and a nuisance for any person to cause or permit:

A. Any weeds such as burdock, jimson, ragweed (giant), ragweed (common), thistle, cocklebur, blue vervain, common milkweed, wild carrot, poison ivy, wild mustard, rough pigweed, lambsquarter, wild lettuce, curled dock, smart weeds (all varieties), poison hemlock, wild hemp, horseweed, or other weeds of a like kind, to grow in any lot or tract of land in the Village.

B. Growth of the bush of the tall, common or European Barberry, further known as Berberis Vulgaris or its horticultural varieties, within the Village, and as defined by the U.S. Department of Agriculture.

C. Any weeds, grass or plants other than trees, bushes, flowers, vegetables or other ornamental plants, to grow to a height exceeding eight (8) inches anywhere in the Village.

13-1-7: DUTY OF OWNER:

A. It is hereby declared to be illegal for the owner of real estate to refuse or neglect to cut weeds when such weeds shall have reached a height in excess of eight (8) inches.

B. Every owner of real estate within the Village shall cut weeds on his property at all such times as may be necessary so that such weeds shall not exceed eight (8) inches in height and if said owner neglects or refuses to cut weeds so that such weeds shall not exceed eight (8) inches in height the Village may cut the weeds or authorize or hire some person to cut the weeds.

13-1-8: NOTICE OF LIEN:

If weeds are cut by or on behalf of the Village, after notice to abate nuisance as provided herein,

a notice of lien of the cost and expense thereof incurred by the Village shall be recorded in the following manner: The village or the person performing the service by authority of the Village, in its name, may file notice of lien in the office of the Recorder of Deeds of Bureau County. The notice of lien shall consist of a sworn statement setting out: (1) A description of the real estate sufficient for identification thereof, (2) The amount of money representing the cost and expense incurred or payable for the service, with the least amount to be charged per separate event to be \$150.00, and (3) The date or dates when said cost and expense was incurred by the village, and or its representative and said notice shall be filed within sixty (60) days after the cost and expense is incurred. (Amd. by Ord. 111901-04)

13-1-9: RELEASE OF LIEN:

Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the Village and the release may be filed of record in the same manner as filing notice of said lien.

13-1-10: LITTER IN PUBLIC PLACES:

It is hereby declared a nuisance to throw or deposit litter in or upon any street, sidewalk, or other public place within the Village except in public receptacles or in authorized private receptacles for collection.

Litter is garbage, refuse, rubbish, and all other waste material.

13-1-11: PETROLEUM PRODUCTS, EXPLOSIVES:

It is hereby declared a menace to the public safety and a nuisance for any person to cause or permit:

A. Petroleum Products. The accumulation or storage, within one hundred (100) yards of any building occupied as a residence or business, other than a licensed gasoline service station, of any petroleum, naphtha, benzine, coal oil, gasoline, kerosene, turpentine or other petroleum products or inflammable substances of any kind, in quantities greater than fifty (50) gallons; or

B. Explosives. The deposit, accumulation, storage or presence, within one hundred (100) yards of any building occupied as a residence or business of any powder magazine, nitroglycerine, dynamite or other explosive substance of any kind.

13-1-12: ABANDONED REFRIGERATORS:

It is hereby declared a menace to the public safety and a nuisance for any person to cause or permit the existence or storage in any place accessible to children of any abandoned or discarded refrigerator, icebox, ice chest, deep freeze or other airtight appliance or container of any kind, of a capacity of one and one-half (1/2) cubic feet or more, from which the lids, doors or other covers have not been removed or which cannot easily be opened by a child, by means of pushing only, from the inside thereof.

13-1-13: SCAFFOLDING LADDERS:

It is hereby declared a menace to the public safety and a nuisance for any person:

A. To erect or use, or to cause or permit to be erected or used, any insecure or unsafe scaffold or ladder whereby the safety of persons working thereon or passing thereunder may in any way be endangered.

B. To place or leave, or to cause or permit to be placed or left, any tools or articles on any such scaffold or ladder in such manner that the same may fall into any street, sidewalk or other public way, whereby the safety of persons passing thereunder may in any way be endangered.

13-1-14: NUISANCES NOT ENUMERATED HEREIN:

Any nuisance declared by Statute, this Division or other provisions of this Code or ordinances of the Village shall be enforceable under the provisions of this Division as if enumerated specifically herein.

13-1-15: ENUMERATION NOT EXCLUSIVE:

Nuisances enumerated in this Division shall not be deemed exclusive, but are in addition to and to be construed in conjunction with any other nuisances enumerated in Statutes or other provisions of this Code or ordinances of the Village.

13-1-16: DUTY OF VILLAGE OFFICERS TO INVESTIGATE; POWER OF ENTRY:

A. For the purpose of discovering nuisances, it shall be the duty of police, fire, health and building officers and inspectors to investigate, confirm and report any nuisances coming to their attention.

B. In order to investigate, confirm and report nuisances, said officers and inspectors shall, upon proper identification, be permitted at any reasonable hour and in a reasonable manner, to visit and enter into or upon any premises or property within the Village to make an examination thereof, if they shall have reasonable grounds to believe that a nuisance exists.

13-1-17: NOTICE TO PROPER OFFICIALS:

Whenever any nuisance shall be reported to or investigated and determined by the police, fire, health or building officers or inspectors, notice shall be given to the owner or person in control of the property or premises involved, and to the appropriate Village officials whose functions include the abatement of such nuisances.

13-1-18: NOTICE TO ABATE NUISANCE:

A. Whenever any health or building official or inspector, or any police or fire officer, determines that a nuisance exists on any private property or premises, except as otherwise provided herein, the proper Village official shall cause a written notice to be served upon the owner or, if the owner cannot be found, upon the occupant or person in control of the property or premises who is causing, permitting or maintaining such nuisance, and shall cause a copy of said notice to be conspicuously posted within or upon such property or premises.

B. Such notice shall fairly apprise such person of the nature of the nuisance, his duty to abate or remove the nuisance within the time provided therein, the penalty for failure to abate the same, and shall state that, if said nuisance is abated by the Village, liability for necessary expenses so incurred shall accrue as provided for in Section 13-1-23 of this Division.

13-1-19: ABATEMENT OF NUISANCES; VILLAGE TO ABATE; TIME LIMITS:

It is hereby declared the duty of any person determined to have created, caused, erected, maintained or permitted a nuisance to exist within the Village to discontinue and abate such nuisance within forty-eight (48) hours or such other time period as may be specified therein, from the time he receives written notice thereof.

13-1-20: FAILURE TO ABATE, SEPARATE AND RECURRING OFFENSE:

It shall be unlawful and a violation of this Division for any person to neglect, refuse or otherwise fail to remove or abate any nuisance after expiration of the forty-eight (48) hour or other specified time period provided by notice thereof; and each twenty-four (24) hours, or fraction thereof, during which such nuisance continues or exists shall be deemed a separate offense.

13-1-21: SAME; ABATEMENT BY VILLAGE:

Whenever any nuisance is not abated by the owner, lessee or person in control of premises or property affected within the time provided by notice, the proper Village officer shall cause the abatement or removal of such nuisance.

13-1-22: SUMMARY ABATEMENT BY VILLAGE WHEN EMERGENCY OR ON PUBLIC PROPERTY:

Whenever any nuisance (a) constitutes or is deemed to be an imminent or immediate danger to public health or safety, or (b) exists on public property, the proper Village officer shall cause such nuisance to be summarily and immediately abated and removed, regardless of any forty-eight (48) hour or other time period specified by notice to the person responsible therefor; provided, however, that in situation (a) above, such officer shall have first applied for and obtained the written permission of the President of the Village for such summary abatement.

13-1-23: COSTS OF ABATEMENT; DEBT OF OWNER:

A. Any costs or expenses of abatement reasonably incurred by the Village pursuant to the provisions of Section 13-1-21 and 13-1-22 of this Division shall be deemed a debt to the Village by the owner, lessee or person in control of premises upon which such nuisance existed; provided, that where specifi-

cally provided in this Code or by Statute, such costs and expenses shall become a lien upon the real estate or personal property affected, superior to all other liens and encumbrances, except tax liens.

B. It shall be the duty of the Village Attorney to enforce by civil action any and all such debts or liens as provided in subsection A. of this Section.

13-1-24: PENALTY:

Any person, firm or corporation, who shall violate any provision or section of this ordinance shall, upon conviction, be fined in an amount not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00). Each day that the fine for a conviction goes unpaid shall be deemed a separate offense and shall be charged accordingly.

13-1-25: SEPARABILITY:

It is the intention of the Village Board that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the Village Board that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

13-1-26: ORDINANCES REPEALED:

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

13-1-27: EFFECTIVE DATE:

This ordinance shall take effect upon its passage and publication as provided by Statute.

(Ord. No. 0-5-89-8-7)