

## Chapter 20 NUISANCES

### ARTICLE I. IN GENERAL

- [Sec. 20-1. Public nuisances prohibited, defined.](#)
- [Sec. 20-2. Public nuisances affecting health.](#)
- [Sec. 20-3. Public nuisances affecting peace and safety.](#)
- [Sec. 20-4. General abatement procedure.](#)
- [Sec. 20-5. Summary abatement when immediate danger exists.](#)
- [Sec. 20-6. Abatement by village.](#)
- [Sec. 20-7. Other abatement methods not excluded.](#)
- [Sec. 20-8. Reinspection fee.](#)
- [Sec. 20-9. Cost of abatement.](#)
- [Secs. 20-10—20-36. Reserved.](#)

### ARTICLE II. SPECIFIC NUISANCES

#### DIVISION 1. GENERALLY

- [Sec. 20-37. Littering.](#)
- [Sec. 20-38. Unregistered and unlicensed motor vehicles.](#)
- [Sec. 20-39. Junk vehicle and vehicle parts and repair of vehicles outside structures prohibited.](#)
- [Sec. 20-40. Property maintenance.](#)
- [Sec. 20-41. Smoking in village buildings and vehicles restricted.](#)
- [Secs. 20-42—20-70. Reserved.](#)

#### DIVISION 2. DUTCH ELM DISEASE

- [Sec. 20-71. Declared nuisance.](#)
- [Sec. 20-72. Inspection.](#)
- [Sec. 20-73. Abatement; costs.](#)
- [Sec. 20-74. Spraying trees.](#)
- [Sec. 20-75. Transporting of elm wood prohibited.](#)
- [Secs. 20-76—20-93. Reserved.](#)

#### DIVISION 3. OVERGROWN LAWN GRASS

- [Sec. 20-94. Lawn grass defined.](#)
- [Sec. 20-95. Findings; purpose.](#)
- [Sec. 20-96. Excessive grass height declared public nuisance.](#)
- [Sec. 20-97. Inspection.](#)

## Chapter 20 NUISANCES

[Sec. 20-98. Abatement procedure.](#)

[Secs. 20-99—20-124. Reserved.](#)

### DIVISION 4. PROHIBITED DISCHARGES

[Sec. 20-125. Hazardous material incident response.](#)

## CHAPTER 20 NUISANCES

### ARTICLE I. - IN GENERAL

#### Sec. 20-1. Public nuisances prohibited, defined.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisances within the village or directly affecting the village. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Greatly offend the public morals or decency;
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage any street, highway, navigable body of water or other public way or the use of public property.

(Prior Code, §§ 16.01, 16.02)

#### Sec. 20-2. 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 this section:

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (2) 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;
- (3) 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;
- (4) All noxious weeds and other rank growth of vegetation;
- (5) 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 sensibilities or to threaten or cause substantial injury to property in the village;
- (6) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage or industrial wastes or other substances;
- (7) 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 sense of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village;
- (8) All abandoned wells not securely covered or secured from public use;
- (9) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter or public place within the village.

## Chapter 20 NUISANCES

### Sec. 20-3. 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 this section:

- (1) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;
- (2) All limbs of trees which project over and less than 14 feet above the surface of a public street;
- (3) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
- (4) All buildings, structures and property in violation of one or more of the property maintenance provisions of this chapter;
- (5) All wires over streets or public grounds which are strung less than 15 feet above the surface thereof;
- (6) All loud, discordant and unnecessary noises or vibrations of any kind;
- (7) 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;
- (8) All obstructions of streets 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;
- (9) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street;
- (10) All abandoned refrigerators, freezers or major appliances from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside;
- (11) Any unauthorized or unlawful use of property abutting on a public street or of a public street which causes large crowds of people to gather, obstructing traffic and free use of the streets;
- (12) Repeated or continuous violations of village ordinances or state law relating to the storage of flammable liquids.

(Prior Code, § 16.02)

### Sec. 20-4. General abatement procedure.

- (a) *Inspection of premises.* Whenever complaint is made that a public nuisance exists within the village, the village administrator shall promptly notify the police chief, health officer or building inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the village administrator. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the village office.
- (b) *Notice of violation.* Whenever the inspecting officer determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this chapter, or any rule or regulation adopted pursuant thereto, he shall issue the violator a written order to include:
  - (1) A description of the real estate involved.
  - (2) A statement of violations and corrective actions required.

## Chapter 20 NUISANCES

- (3) A reasonable time limit for the performance of any corrective act required.
  - (4) A statement that if the violation is not corrected within the time set forth the property owner shall be subject to forfeiture pursuant to section 1-12 or the inspecting officer may take steps to abate the violation and that the cost of the abatement may be assessed against the owner of the property involved.
- (c) *Service.* Such notice shall be served upon the owner, operator or occupant, as the case may require, and may be served by certified mail or in the manner provided by Wis. Stats. ch. 801 for service of summons.
- (d) *Exception to written order.* In cases where a violation poses an immediate health hazard to the public as determined by the health officer or designee, the health officer or designee can take all reasonable steps to abate the hazard without a written order.

(Prior Code, § 16.03)

### **Sec. 20-5. Summary abatement when immediate danger exists.**

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 or village administrator may direct the police chief (or designee) 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.

(Prior Code, § 16.03)

### **Sec. 20-6. 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 health officer in case of health nuisances, and, the police chief (or designee), in other cases, shall cause the abatement or removal of such public nuisance.

(Prior Code, § 16.03)

### **Sec. 20-7. Other abatement 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 state law.

(Prior Code, § 16.03)

### **Sec. 20-8. Reinspection fee.**

To compensate for inspection and administrative costs, a fee as set forth in the village fee schedule may be charged for any reinspection to determine whether a condition identified in a notice of violation under this chapter has been remedied. No fee shall be charged for the reinspection when compliance is recorded. A fee as set forth in the village fee schedule may be charged for each subsequent reinspection.

## Chapter 20 NUISANCES

Reinspection fees shall be charged against the real estate upon which the inspections were made, shall be a lien upon the real estate, and may be assessed and collected as a special charge.

(Prior Code, § 16.03)

### **Sec. 20-9. 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.

(Prior Code, § 16.04)

### **Secs. 20-10—20-36. Reserved.**

## **ARTICLE II. - SPECIFIC NUISANCES**

### **DIVISION 1. - GENERALLY**

### **Sec. 20-37. Littering.**

No person shall allow any type of debris or waste material to remain upon his property or on, in, or within 100 feet of any highway or watercourse abutting his property for an unreasonable length of time.

(Prior Code, § 16.06)

### **Sec. 20-38. Unregistered and unlicensed motor vehicles.**

No person shall park or permit any other person to park any motor vehicle, except a motor vehicle parked in an enclosed building, on any premises in the village unless the vehicle has a current and valid registration, valid license plates currently registered to and displayed on the vehicle, and a current registration sticker.

(Prior Code, § 16.12)

**State Law reference**— Immobilization, removal and disposal of unregistered motor vehicles, Wis. Stats. § 341.65.

### **Sec. 20-39. Junk vehicle and vehicle parts and repair of vehicles outside structures prohibited.**

No person shall accumulate or store any junked automobiles or parts thereof outside of any building on any real estate located within the village limits or perform major repairs, including body work, on any automobile outside a building except at an approved automobile establishment.

(Prior Code, § 16.12)

## Chapter 20 NUISANCES

**State Law reference**— Storage of junked vehicles, Wis. Stats. § 175.25.

### **Sec. 20-40. Property maintenance.**

All buildings, structures, and property shall be maintained as follows, and failure to do so is declared a public nuisance:

- (1) Floors, walls, foundations, and roofs shall be weathertight and kept in good repair.
- (2) Exteriors shall be maintained by painting or otherwise protected to prevent deterioration or a blighting influence upon neighboring properties.
- (3) Stairs and porches shall be kept in good repair and free from refuse and debris.
- (4) Buildings shall be equipped so as to provide adequate roof drainage to protect the building and shall be kept in good repair.
- (5) No construction equipment, maintenance equipment, or maintenance implement shall be stored or remain in the street, yard, or public right-of-way except during such time that construction or maintenance activities are in progress.
- (6) Every fence shall be kept in good state of maintenance and repair by the owner thereof or shall be removed.
- (7) All concrete or asphalt surfaces shall be maintained by the owner of said premises in a good state of repair.

(Prior Code, § 16.13)

### **Sec. 20-41. Smoking in village buildings and vehicles restricted.**

- (a) It is the intent of the village to promote good health and welfare for its employees and other citizens by regulating smoking in or on village property under the provisions of Wis. Stats. § 101.123; therefore, no person shall smoke in village buildings or village vehicles as designated by department except that smoking shall be permitted at outside work sites as determined by the village department heads.
- (b) For purposes of this section, the term "smoking" means carrying a lighted cigar, cigarette, pipe or any other lighted smoking material or equipment.
- (c) The village clerk shall post notice of the designation of no smoking in or near the areas designated.
- (d) Any person violating this section after being advised by an employee of the village that smoking in the area is prohibited shall be subject to a forfeiture pursuant to section 1-12.

(Prior Code, § 11.05)

**Secs. 20-42—20-70. Reserved.**

## DIVISION 2. - DUTCH ELM DISEASE

### **Sec. 20-71. Declared nuisance.**

The village board having determined that the health of the elm trees within the village is threatened by a fatal disease known as Dutch elm disease hereby declares the following to be public nuisances:

## Chapter 20 NUISANCES

- (1) Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus and which harbors any of the elm bark beetles (*Scolytus multistriatus* (Marsham) or *Hylurgopinus rufipes* (Eichh.).
- (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.

(Prior Code, § 16.05)

### **Sec. 20-72. Inspection.**

The village trustees shall cause to be inspected all premises and places within the village at least twice each year to determine whether any Dutch elm disease exists thereon and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the Dutch elm disease or elm bark bearing material infested with the elm bark beetle.

(Prior Code, § 16.05)

### **Sec. 20-73. Abatement; costs.**

- (a) If, upon inspection and examination, it shall be determined that Dutch elm disease exists in or upon any public street, parkway, park or other public place within the village and that the danger to other trees within the village is imminent, the village trustees, at the expense of the village, shall immediately cause it to be removed and burned or otherwise abate the same in such manner as to prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus.
- (b) If it shall be determined with positive certainty that any public nuisance as herein defined exists in or upon private premises and that the danger to other elm trees within the village is imminent, the village trustees shall immediately serve upon the owner of such property, if he can be found, or upon the occupant thereof, a written notice to abate such nuisance within ten days of the service of said notice. If such owner or occupant does not abate said nuisance within the time limited, the village trustees shall cause the same to be abated.
- (c) No damage shall be awarded to the owner for destruction of any elm tree, elm wood or any part thereof pursuant to this section, and all costs shall be charged to the owner of the property. A statement shall be submitted by the village clerk for such costs to the owner of the property, and if not paid within 30 days, said costs shall be charged against the owner of the premises as a special assessment tax and placed upon the tax roll for collection.

(Prior Code, § 16.05)

### **Sec. 20-74. Spraying trees.**

If it is determined that any elm tree or part thereof is infected with Dutch elm disease fungus, the village board or trustees may require that all high value elm trees within a 1,000 foot radius thereof be sprayed, prior to July 31, with an effective elm bark beetle destroying concentrate.

(Prior Code, § 16.05)



## Chapter 20 NUISANCES

### **Sec. 20-75. Transporting of elm wood prohibited.**

No person, firm or corporation shall bring into the village any bark bearing elm wood or material.

(Prior Code, § 16.05)

### **Secs. 20-76—20-93. Reserved.**

## DIVISION 3. - OVERGROWN LAWN GRASS

### **Sec. 20-94. Lawn grass defined.**

For purposes of this division, the term "lawn grass" includes any variety of planted or naturally occurring grass, including, but not limited to, *Agrostia alba* (Redtop), *Poa pratensis* (Kentucky Blue), *Dactylis glomerata* (Orchard), *Sorghum halepense* (Johnson), *Phleum pratensis* (Timothy), *Setaria* (Foxtail). The term "lawn grass" shall not include planted and cultivated prairies such as that owned by the Wind Meadows Corporation that is burned regularly with permission for such burn by the village board or natural lawns appropriately cultivated and maintained as approved by the weed commissioner or the village board of trustees.

(Prior Code, § 16.10)

### **Sec. 20-95. Findings; purpose.**

The village board of trustees finds that lawn grass on residentially or commercially zoned property that exceeds 12 inches in length adversely affects the public health and safety in that it tends to emit pollen and other discomfoting bits of plants, constitutes a fire and safety hazard in that debris can be hidden in the grass, interferes with the public convenience, and adversely affects property values of other land within the village. Based on these findings, the village board adopts this division due to the unique nature of the problems associated with lawn grass being allowed to grow to excessive length on residentially or commercially zoned property in the village.

(Prior Code, § 16.10)

### **Sec. 20-96. Excessive grass height declared public nuisance.**

Any lawn grass on a residentially or commercially zoned property that exceeds 12 inches in length is hereby declared to be a public nuisance, except for property located in a designated floodplain area, wetland area, or area for which a land management plan has been approved, or where the lawn grass is part of an approved prairie or natural lawn. The property owner or occupant, or other person in control, of any property on which the lawn grass constitutes a public nuisance must take such actions as are reasonably necessary to abate the nuisance, including cutting the lawn grass as frequently as is necessary to ensure that it does not exceed 12 inches in length.

(Prior Code, § 16.10)

## Chapter 20 NUISANCES

### **Sec. 20-97. Inspection.**

The weed commissioner or his designee shall inspect or cause to be inspected all commercial and residential properties within the village to determine whether a violation of this division exists.

(Prior Code, § 16.10)

### **Sec. 20-98. Abatement procedure.**

- (a) *Notice of violation.* If the weed commissioner determines with reasonable certainty that a violation of this division exists within the village, he shall immediately deliver to the property owner, occupant, or person in control a written notice that the village will abate such nuisance under this section, on or after the specified date, unless the nuisance is otherwise abated prior to that date.
- (b) *Service of notice.* The notice of violation shall be delivered at least five days prior to the date on which the lawn grass may be cut by the weed commissioner. If such delivery is to be effected by mailing, an additional three days shall be allowed before the lawn grass may be cut.
- (c) *Request for hearing.* If the owner, occupant, or person in control of such property believes that the lawn grass on such property is not a public nuisance or a violation of this section, he may request a hearing before the village board. The request for hearing must be made in writing to the village clerk's office within three days of the weed commissioner's notice.
- (d) *Bond required.* Along with the request for a hearing, the party so requesting must deposit a \$125.00 bond. If a decision is rendered in the requesting party's favor, the \$125.00 bond will be refunded. If the requesting party fails to appear for the hearing, or if the decision is rendered against the requesting party, the bond amount shall be forfeited.
- (e) *Hearing; final determination by board.* The hearing by the village board shall be held within seven days of the date of the request for hearing and the property in question may not be mowed by the village until such time as the hearing is held. At the close of the hearing, the village board shall specify its findings and conclusions. If the village board of trustees determines that a public nuisance does exist, the owner, occupant or person in control of the property shall be allowed 48 hours from the date of the board's decision to abate the nuisance. If the nuisance is not abated within the allowed time, the weed commissioner shall abate the nuisance in accordance with this section.
- (f) *Cutting by village.* If a violation of this division exists and either no party has requested a hearing by the date set forth in the notice of violation or 48 hours has elapsed since the village board determined after hearing that a violation exists, then the weed commissioner shall cut, or cause to be cut, all lawn grass on the subject property.
- (g) *Costs of abatement.* The expense of cutting shall be charged to the property owner at the rate provided in the village fee schedule. The total amount charged to the property's owner shall also include the administrative expenses arising from the abatement and the costs of any additional work as may be necessary to adequately clear the property so that it can be safely cut. The village clerk shall deliver a statement to the property owner setting forth the total charge for the abatement and requesting payment within 30 days. If payment in full is not made within the allowed time, the outstanding amount shall be collected like other taxes upon real estate or as provided under Wis. Stats. § 66.0627.

(Prior Code, § 16.10)

### **Secs. 20-99—20-124. Reserved.**

## DIVISION 4. - PROHIBITED DISCHARGES

## Chapter 20 NUISANCES

### Sec. 20-125. Hazardous material incident response.

- (a) *Generally.* No person shall discharge or cause to be discharged, leaked, leached or spilled upon any public street or public property, or onto the ground, surface waters, subsurface waters, or aquifers, or on any private property within the village, any explosive, flammable or combustible solid liquid or gas, any radioactive material at or above nuclear regulatory restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
- (b) *Containment, cleanup and restoration.* Any person violating this section shall, upon direction of any emergency government officer, begin immediate actions to contain, clean up and remove to an approved repository the offending materials and restore the site to its original condition, with the offending person being responsible for all expenses incurred. Should any person fail to engage the necessary men and equipment to comply or to complete the requirements of this section, the office of emergency government may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the village.
- (c) *Site access.* Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency government officers and staff and to village police and fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- (d) *Public protection.* Should any prohibited discharge occur that threatens the life, safety or health of the public at, near or around the site of a prohibited discharge, and that the situation is so critical that immediate steps must be taken to protect life and limb, the coordinator of emergency government, his assistant, or the senior village police or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the village board of trustees can take appropriate action.
- (e) *Enforcement.* The coordinator of emergency government and his deputies, as well as the village police officers, shall have authority to issue citations or complaints under this section.
- (f) *Civil liability.* Any person in violation of this section shall be liable to the village for any expenses incurred by the village or loss or damage sustained by the village by reason of such violations.

(Prior Code, § 11.03)