CHAPTER 10

PUBLIC NUISANCES

Section Number	**Title**	***Ordinance Number***	***Date of Ordinance***
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10.01 PUBLIC NUISANCES PROHIBITED.

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

10.02 PUBLIC NUISANCE DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which continues 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, alley, highway, navigable body of water or other public way or the use of public property.

10.03 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 10.02:

(1) ADULTERATED FOOD. All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) UNBURIED CARCASSES. 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 hrs. after death.

(3) BREEDING PLACES FOR INSECTS OR VERMIN. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed.

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

(5) PRIVY VAULTS AND GARBAGE GANS. Privy vaults and garbage cans which are not flytight.

(6) NOXIOUS WEEDS. All noxious weeds, as defined in Section 10.13.

(7) WATER POLLUTION. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(8) NOXIOUS ODORS, ETC. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, 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.

(9) STREET POLLUTION. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

(10) AIR POLLUTION. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the Village.

10.04 <u>PUBLIC NUISANCES OFFENDING MORALS AND DECENCY</u>.

The following acts, omissions, places, conditions and things are specifically declared to be 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 Section 10.02:

(1) DISORDERLY HOUSES. 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.

(2) GAMBLING DEVICES. (Rep. & recr. #095-28) All gambling devices, slot machines and punch boards. Gambling devices include, but are not limited to, video games that simulate one or more games commonly referred to as poker, blackjack, craps, hi-lo, roulette or other common gambling forms, though not offering the player the opportunity to obtain something of value. The term also includes any video game that awards game credits or replays and contains a meter or device which records unplayed credits or replays,

(3) UNLICENSED SALE OF LIQUOR AND BEER. 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 ordinances of the Village.

(4) CONTINUOUS VIOLATION OF VILLAGE ORDINANCES. 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.

(5) ILLEGAL DRINKING. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws.

10.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are 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 definition of Section 10.02:

(1) DANGEROUS SIGNS, BILLBOARDS, ETC. All signs, 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.

(2) ILLEGAL BUILDINGS. All buildings erected, repaired or altered in violation of Village ordinances relating to materials and manner of construction of buildings and structures within the Village.

(3) UNAUTHORIZED TRAFFIC SIGNS. 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 official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any device, sign or signal.

(4) OBSTRUCTION OF INTERSECTIONS. 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.

(5) LOW-RANGING TREE LIMBS. See Section 8.11(3) of this Municipal Code.

(6) DANGEROUS TREES. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(7) FIREWORKS. All use or display of fireworks except as provided by State laws and Village ordinances.

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

(9) LOW HANGING WIRES AND CABLES. All wires and cables over streets, alleys or public grounds which are strung less than 15' above the surface thereof.

(10) NOISY ANIMALS OR FOWL. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the Village.

(11) OBSTRUCTIONS OF STREETS; EXCAVATIONS. 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 but including those 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 or which do not conform to the permit.

(12) UNLAWFUL ASSEMBLIES. 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.

(13) BLIGHTED BUILDINGS AND PREMISES. Premises existing within the Village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management or the accumulation thereon of junk or other unsightly debris, structurally unsound fences and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the Village. Elimination and prevention of blighted premises in the future is in the best interest of the citizens and this shall be fostered and encouraged by this chapter. It is essential to the public interest that this chapter be liberally construed to accomplish the purposes of this subsection.

10.06 DUTCH ELM DISEASE.

(1) DEFINITIONS. Whenever used in this section, unless a different meaning is apparent from the context, the following terms shall have the meanings indicated:

Disease. The Dutch elm disease, a fatal disease of elms caused by the fungus Ceratostomella ulmi Buisman, as well as the casual fungus.

Forester. The Village Board or their appointed representative.

Owner. The owner of real estate or the person in possession of real estate and shall include any person, firm or corporation.

Tree Material. Any elm firewood, stump, log, branch or other bark bearing part of an elm tree.

Vector. The native elm bark beetle Hylurgopinus refipes (Eichh.) and the small European elm bark beetle Scolytus multistriatus (Marsh) which transmit the fungus to elm trees and elm material.

(2) PERMISSION TO VILLAGE EMPLOYEES. Every owner in the Village shall permit employees of the Village to enter upon such real estate for the purpose of examining trees. If it shall appear to any Village employee that an elm tree may be diseased, such employee shall be permitted to take the necessary sample of wood from the tree for diagnosis.

(3) NOTICE TO OWNER. If an examination made as above provided or made at the instance of the owner discloses that the tree has the disease, the Forester shall give notice to the owner at his last known address to have such diseased tree cut down and the same destroyed by burning within 5 days of giving such notice. If the owner does not so cut down the diseased tree and destroy the same by burning within 5 days after such notice is given, such tree shall be cut down and destroyed by burning by Village employees on order of the Forester. Accurate record of the expenses of such cutting and burning shall be made and a report thereof given to the Clerk/Treasurer, who shall enter the amount against the respective real estate in the next and subsequent tax roll as a special tax against such real estate, and the same shall be collected in all respects like other Village taxes upon real estate.

(4) INFECTED ELM SHALL NOT BE KEPT, STORED, SOLD OR TRANSFERRED.

(a) No owner shall keep, store, sell, offer for sale, give away or transfer any elm tree material which is infected with the fungus or infested with the vector or transport the same into or within the Village except for the purpose of immediately destroying the same by burning; or, if not so infected or infested without removing and burning the bark, or treating such elm material with a complete covering of an approved vector destroying chemical.

(b) Every owner in the Village shall permit Village employees to enter upon their real estate and every garage or other structure thereof for the purpose of determining whether any elm material infected with the fungus or infested with the vector is located on such real estate. Each owner shall permit such employee to take a sample of any elm material for the purpose of determining whether it is infected with the fungus or infested with the vector and if the examination of such sample discloses that any such material is so infected or infested, the Forester shall notify the owner to destroy by burning all of such elm material located on such real estate or any structure thereon.

(c) If the examination of the elm sample obtained as above described discloses that the elm material is not infected with the fungus or infested with the vector, the Forester shall notify the owner that the elm material is not infected or infested, but that the owner shall remove and burn the bark or treat such elm material with a complete covering of an approved vector destroying chemical. The owner shall notify the Forester in writing of his compliance.

(d) If the owner does not comply with any notice given as provided in this section within 10 days after the same is given, then, on order of the Village Board, Village employees will remove all such infected and infested elm material and all such elm material not infected and infested and burn the same. Accurate account of the expense of removal and burning shall be kept and report made to the Clerk/Treasurer who shall enter the amount thereof on the tax roll as provided in the preceding section.

(5) SPRAYING ELM TREES ON PRIVATE PROPERTY. When it has been determined that the disease is present in the Village, either in elm trees or in elm material, a spray program to protect all living elms of the Village shall be initiated which shall be in accord with the currently approved recommendations of the State of Wisconsin Dutch Elm Disease Committee; provided that, at the discretion of the Forester, this spray program shall commence with the confirmation of the disease in areas adjacent to the Village. Notice of the necessity of spraying elm trees on private property shall be given by the Forester to the owner and unless such owner shall have had such elm trees sprayed within 10 days of the time of giving such notice and have provided satisfactory evidence to the Forester that any private spraying was done in accordance with prescribed procedure, Village employees

shall spray such trees. Accurate record shall be kept of the cost of such spraying and report made to the Clerk/Treasurer, who shall enter the amount thereof on the tax roll as provided for in the preceding sections.

(6) DEAD OR DYING WOOD TO BE REMOVED FROM EVERY ELM TREE. Each owner of real estate in the Village shall cause all dead or dying wood to be removed from every elm tree on his real estate and to be burned. In the event that it appears to any Village employee that there is dead wood in any elm tree on private property in the Village, the Village Board shall cause notice to be given, then Village employees shall remove the same and burn it. Accurate record of the cost of removing and burning such dead wood shall be kept and report made to the Clerk/Treasurer, and the amount thereof shall be entered on the next and subsequent tax roll and collected as a special tax against such real estate as provided in the preceding sections.

10.07 <u>EMISSION OF DENSE SMOKE</u>.

To emit or cause or permit to be emitted into the open air within the corporate limits of the Village any dense smoke is hereby declared to be a nuisance, and the same is hereby prohibited. The owner of any stationary locomotive engine, portable boiler or furnace or tar kettle, and any officer, manager or agent of any corporation owning a stationary or locomotive engine, portable boiler or furnace or tar kettle, and the owner, lessee or occupant of any building, and any officer, manager or agent of any corporation or company owning, leasing or occupying any building from which dense smoke is permitted or allowed to issue or to be emitted within the corporate limits of the Village, shall be guilty of an offense.

10.08 <u>CLEANUP OF ANIMAL WASTE PRODUCTS</u>.

(1) ANIMAL WASTE NUISANCE. It shall be unlawful for any person in immediate control of any dog or cat to permit fecal matter, which is deposited by such animal while off of its own premises, to remain on any public property or private property, which is not owned or occupied by such person. It shall be solely the responsibility of the person in control of said dog or cat to immediately, after deposit, remove all fecal matter and dispose of the same. A proper disposal of the fecal matter shall be to place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person.

(2) REMOVAL DEVICE OR OBJECT. Any person causing or permitting a dog or cat to be on any property, public or private, not owned or occupied by such person, shall have in his or her immediate possession a device or object suitable for removal of excrement and subsequent disposal on the property owned or occupied by such person pursuant to Subsection (1).

(3) EXCEPTIONS. This Section shall not apply to a person, who is visually disabled, and in control of a service dog.

10.10 <u>ABATEMENT OF PUBLIC NUISANCES</u>.

(1) ENFORCEMENT. The Village Police Chief and Village Administrator shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make inspections periodically and 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 has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(2) SUMMARY ABATEMENT. If the inspecting officer determines that a public nuisance exists within the Village, and there is great and immediate danger to public health, safety, peace, morals or decency, the President may direct the proper officer to cause the same to be abated and charge the cost to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(3) ABATEMENT AFTER NOTICE. If the inspecting officer determines that a public nuisance exists on private premises, but that such nuisance does not threaten great and immediate danger to public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If the nuisance is not removed within 10 days, the proper officer shall cause the nuisance to be removed as provided in sub. (2).

(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.

(5) COURT ORDER. Except when necessary under sub. (2), an officer hereunder shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

10.11 <u>COST OF ABATEMENT</u>.

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 he 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.

10.12 PENALTY.

Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

10.13 NOXIOUS WEEDS.

(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 indicates a different meaning:

Noxious weeds means and includes those weeds defined in Wis. Stats. § 66.0407 as noxious weeds and, in addition thereto excepting on village-owned property, shall include any other weeds, grass, hay, brambles, brush, reeds, rushes, cattails, or any combination thereof, which have grown to a height of nine inches or more. Cultivated cropland is exempt from said height restriction.

(2) STATUATORY PROVISIONS ADOPTED. The provisions of Wis. Stats. §§66.0407 and 66.0517, so far as applicable, are hereby adopted by reference and made a part of this Code as fully as if set forth in this article.

(3) UNLAWFUL TO PERMIT GROWTH. It shall be unlawful for any owner, occupant or person in control of any premises in the village to allow or maintain the growth of noxious weeds on such premises or upon any sidewalk or parkway abutting such premises.

(4) NOTICE TO ABATE. The weed commissioner is hereby authorized and empowered to notify in writing the owner, occupant or person in control of any premises in the village who shall allow or maintain any growth of noxious weeds on such premises to cut, destroy and/or remove such weeds. Such notice shall be sent by mail addressed to the owner or person in control of such premises appearing on the records of the city assessor at the last known address appearing on such records.

(5) ABATEMENT BY WEED COMMISSIONER. Upon the failure, neglect or refusal of any owner, occupant or person in control of any premises in the city who is so notified to cut, destroy and/or remove the noxious weeds on such premises and/or abutting sidewalk or parkway within five days after the mailing of such notice, the

weed commissioner shall cut, destroy and/or remove such noxious weeds; and at the completion of such work, shall charge an assessed cost thereof in the manner provided by Wis. Stats. § 66.0517.

(6) ISSUANCE OF CITATION. In all cases where the owner, occupant or person in control of any premises in the village has failed, neglected or refused to destroy and/or remove the noxious weeds on such premises and/or abutting sidewalk or parkway, the weed commissioner or his designee may issue a citation to the person notified under subsection(5) . The citation may be served simultaneously with the weed order.

(7) PAYMENT OF FORFEITURE IN LIEU OF COURT APPEARANCE.

(a) Any person charged with a violation of the offenses listed under subsection (b) of this section may pay the amount enumerated therein at the police department in lieu of a court appearance. Persons wishing to contest charges contained in subsection (b) of this section may contact the police department to arrange a court appearance date.

(b) The following forfeiture may be paid at the police department:

TABLE INSET:

Section number	Violation	Forfeiture
10.13	Failure to cut/remove noxious weeds	$30.00

10.14 <u>REGULATION OF STAGNANT POOLS</u>.

(1) PURPOSE. This section is enacted to promote the public health, safety and welfare. Because of the growing urban concentration within the Village, with the attendant increase in population and, in particular, the increase in the number of young children, the presence, of stagnant pools of water within the Village are declared to be a nuisance in that they attract young children, are often dumping grounds for junk and refuse, are a breeding ground for mosquitoes, flies and insects and serve as habitat for rodents and other unwholesome animals.

(2) DEFINITION. As used herein “stagnant pools of water” refers to waters which are standing in pools without any outlets for at least one-month. A pool shall not cease to be such because it may overflow during periods of rainstorms or melting snows if such outlet does not provide for full drainage of such pool.

(3) PROHIBITION. No person shall permit stagnant pools of water to remain or exist upon any real property under his control within the Village.

(4) DUTIES OF OWNERS. Every owner or manager of real property within the Village shall drain or fill or cause to be drained or filled any stagnant pools of water on such real property within the Village. Such pools shall be filled with clean fill which does not contain any decomposable, toxic or combustible materials or any rubbish, trash or waste materials.