

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, 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 **twenty (20) rods** 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 **fifty (50) rods** 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) **Wells Unplugged.** 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.

(J) **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.

(K) **Discarded Materials.** 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.

(L) **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.

(M) **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.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business within the Village limits, or within **one (1) mile** of the limits.

(O) **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.

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

(Q) **Animals Prohibited.** To own or possess any swine, goats, horses, or fowl or cattle within the Village, unless permitted in a zoned Agricultural District.

(R) **Litter on Village Streets.** It shall be unlawful for any person to allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon Village streets from any moving vehicle, or to be thrown from a moving vehicle, and to remain thereon.

(S) **Slaughtering, Slaughterhouses, Etc.** To slaughter or kill any animals within the Village or to locate or maintain at any place within the Village, or within a radius of **one (1) mile** without the Village, any slaughterhouse, packing house, rendering establishment or bone factory, or to suffer or permit any premises at any place within the limits aforesaid used for any of the purposes aforesaid to become foul or offensive.

(T) **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 and 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 and to place same so that it can be blown about or scattered by the wind.

(U) **Buildings.** To construct or maintain any buildings or structure in violation of any of the building provisions of this Village, or any building which is in an unsanitary condition, or in an unsafe or dangerous condition, or which in any manner endangers the health or safety of any person or persons, is hereby declared to be a public nuisance. Every building or part thereof which is in an unsanitary condition by reason of the basement or cellar being covered by stagnant water, or by reason of the presence of sewer gas, or by reason of any portion of a building being infected with disease or being unfit for human habitation, or which by reason of any other unsanitary condition, is a source of sickness or which endangers the public health, is hereby declared to be a public nuisance.

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

(W) **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.

(X) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the Village so as to cause annoyance or discomfort to the residents thereof.

(Y) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(Z) **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.

(AA) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(See 740 ILCS 55/221 – 55/222)**

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 maintaining shall be dangerous or detrimental to health.

25-1-3 **UNHEALTHFUL BUSINESSES.** No substance, matter or thing of any kind whatever, which shall be dangerous or detrimental to health, shall be allowed to exist in connection with any business, or be used therein, or be used in any work or labor performed in the Village, and no nuisance shall be permitted to exist in connection with any business or in connection with any such work or labor.

25-1-4 **NOTICE TO ABATE.** Whenever the 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) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the Village Board of Trustees.
- (G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this Village will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-5 **HEARING.** Any person ordered to abate a nuisance may have a hearing with the Mayor or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the Village Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Mayor or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

25-1-6 **APPEAL.** Any party aggrieved by the decision of the Mayor may appeal to the Board of Trustees. Such appeal shall be taken by filing with the Village Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the Board of Trustees at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

25-1-7 **ABATEMENT BY VILLAGE.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this Village may perform the required action to abate. Any Village official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the Village Clerk who shall pay such expenses on behalf of this Village. **(See 65 ILCS 5/11-60-2)**

25-1-8 **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)

(See Section 1-1-20 for Penalty)

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" as used in this Code will include, but not be limited to the following: Burdock, Ragweed (giant), Ragweed (common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milkweed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, and 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. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** Any member of the Police Department, Village Superintendent, Mayor, or any 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 occupants 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 or lessee of the premises, or to any member of his household of the age of fifteen (15) 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.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within five (5) days, the Mayor 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 **PENALTY.** Failure to abate a weed nuisance under provisions of this Article after notice shall be punishable by a fine up to Two Hundred Fifty Dollars (\$250.00) for each offense. Each day that the nuisance of excessive weed growth continues unabated after Notice shall constitute a separate offense. In addition to the fine assessed hereunder, the violator will be liable for any costs the Village incurs in abating the nuisance. The minimum cost for abatement will be Two Hundred Fifty Dollars (\$250.00) in addition to the fine. The violator shall also be liable for reasonable attorney's fees incurred in prosecuting the Code violation.

The first posting of the year shall allow for the abatement process above in Section 25-2-5, however, subsequent posting in the same year shall result in an automatic fine and costs of abatement if not performed within five (5) days of the posting.

25-2-9 **FORECLOSURE OF LIEN.** In addition to any other legal remedy available under this code or applicable state or federal law, any lien filed pursuant to this chapter may be enforced by proceedings to foreclose, as in the case of mortgage or mechanic's liens under Illinois law, against the property subject to said lien for the collection of weed cutting costs incurred by the Village plus any and all administrative, filing and/or legal fees or costs for the enforcement of the provisions under this chapter. Such action shall be commenced only upon those liens which equal or exceed a total amount of Three Hundred Fifty Dollars (\$350.00) collectively against a parcel of property (i.e., one or more weed liens filed on the same property for weed cutting costs, including administrative, filing and legal fees) and has been recorded in the Union County recorder's office for a one year period or longer.

(Ord. No. 2017-960; 06/05/2017)
(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. Nor shall any person dispose of garbage, trash or yard waste (including leaves) in the drainage ditches adjacent to Village streets resulting in the blockage of nearby pipe culverts. 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. **(Ord. No. 758; 12-05-05)**

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 **fifteen (15) 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.

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.

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

ARTICLE IV - INOPERABLE VEHICLES

25-4-1 PROHIBITION OF ABANDONED VEHICLES ON STREETS, ALLEYS OR HIGHWAYS. It shall be unlawful for any person to abandon a vehicle on a street, alley or highway within the Village limits.

25-4-2 REMOVAL, DISPOSAL AND/OR SALE OF ABANDONED VEHICLES. The removal of vehicles, required reports, record searches and disposal or sale of vehicles shall be in accordance with provisions authorized in **625 ILCS 5/4-203 and 5/4-213.**

25-4-3 CONDITIONS CAUSING NUISANCE.

(A) Any motor vehicle or part thereof which is inoperable, damaged, deteriorated, or in need of repair for **seven (7) days** or more and is located upon private property within the Village, outside of any enclosure which encloses the vehicle completely from lateral view on all sides and constitutes a danger to persons, including children, or constitutes a blight upon the property or neighborhood in which it is located, is hereby declared to be a nuisance.

(B) Any motor vehicle which is required by Illinois Statutes to have a valid and current registration in order to be legally operated on public streets and highways and which does not have such registration affixed to it as required by law, and which is kept or stored on private property for **thirty (30) days** or more other than within a structure permitted under the Zoning Code of the Village that encloses the vehicle(s) on all sides so as to obscure a view of such vehicle(s) is declared to be inoperable and a nuisance.

25-4-4 NOTICE; REMEDIES. When it shall come to the attention of the Mayor, the Police Chief, or their designees that there exists in the Village any condition as defined and/or described in **Section 25-4-3**, the Mayor, Police Chief or their designees shall forthwith give the owner, the person in charge or the person who is otherwise in control of the property thereof notice, served upon such person by an officer of the Police Department or by mailing such notice to his/her last known address, that such condition exists and that he/she shall have **seven (7) days** from the date of such service in which to remedy the condition or the Village shall otherwise cause the condition to be remedied. If the condition is remedied by the Village or its agents within the said **seven (7) day** period, such compliance shall be a defense to a prosecution for failure to comply with this Code.

25-4-5 FORWARDING OF RECORDS; PROSECUTION. At the expiration of the **seven (7) day** notice as described in **Section 25-4-4**, the Village Clerk or Police Chief shall forward all records of the violation to the Village Attorney for immediate prosecution.

25-4-6 EXEMPTIONS. Any person or firm licensed by the State as an automobile dealer or a person or firm permitted under the provision of this Village's Zoning Code to have a junk yard or auto repair facilities as the same are defined in the Zoning Code shall be exempt from compliance with this Code as regarding the vehicle(s) located on the property where such person or firm legally conducts such business or activity.

25-4-7 RESPONSIBILITY FOR TOWING AND STORAGE COSTS. When a vehicle is removed as provided by this Code, the owner(s) of the vehicle(s) shall be responsible for all towing and storage charges and administrative fees accruing therefrom.

25-4-8 PENALTIES AND ABATEMENT.

(A) Any person who violates any provision of this Chapter shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)** for each and every violation thereof, and every day the violation continues shall constitute a separate offense.

(B) Any owner or lessee or any other person in control of the premises, or the owner or lessee or any other person in control of the vehicle who permits the nuisance described in this Article to exist or who maintains such nuisance shall be fined, upon conviction as set forth in paragraph (A). Each motor vehicle which is permitted to exist as a nuisance shall constitute the subject of a separate offense.

(C) If any person or persons fails to abate said nuisance and/or remove said motor vehicle as defined herein after being properly noticed and ordered so to do, the Village may perform the required action to abate. Any municipal officer who is authorized to abate any nuisance shall have the authority to engage the necessary assistance and to incur the necessary expense in removing said motor vehicle. The official who abates said nuisance and removes said motor vehicle shall keep an accurate account of the expenses incurred so as to seek reimbursement from the person or persons who caused or is otherwise responsible for said violation, as defined herein.

(D) In addition to the fines and/or penalties levied hereunder, violator(s) shall be liable for any costs incurred by the Village in the abating the nuisance and/or removing said vehicle, with the minimum cost for said abatement to be in the amount of **Two Hundred Fifty Dollars (\$250.00)**, which cost shall be in addition to the fines imposed hereunder. **(Ord. No. 741; 04-04-05)**

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.