

CHAPTER XIII
PUBLIC NUISANCES

13.01 PUBLIC NUISANCES PROHIBITED.

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

13.02 DEFINITIONS.

(1) **Public Nuisance.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to: (a) substantially annoy, injure or endanger the comfort, health, repose or safety of the public; (b) in any way render the public insecure in life or in the use of property; (c) greatly offend the public morals or decency; (d) 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.

(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 subsection (1) of this Section:

- (a) **Unburied animal 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 twenty-four hours after death.
- (b) **Insect and vermin breeding places.** 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 and other vermin may breed.
- (c) **Stagnant water.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (d) **Privy vaults and garbage cans.** Privy vaults and garbage cans which are not fly-tight.
- (e) **Noxious weeds.** All Canada Thistle, Leafy Spurge, Field Bindweed (creeping Jenny), and unsightly and troublesome plants, including grass greater than five inches in height, which are detrimental to cultivated crops, public health, public welfare and the general appearance of the surrounding area or such uncultivated rank plants or grass which created unpleasant or noxious odors or grow to such a height so as to permit the concealment of filthy deposits.
- (f) **Air pollution.** 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.

- (g) **Noxious odors.** 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 senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- (h) **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.
- (i) **Wells.** All abandoned wells not securely covered or secured from public use.
- (j) **Street pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- (k) **Animals running at large.** All animals running at large in the Village.
- (l) **Outside lighting.** Any outside electrical light or similar apparatus capable of illuminating in excess of 250 watts including, but not limited to, outside mercury vapor, sodium vapor, or quartz light.
- (m) **Animal feces.**

- (1) Public and private property. It shall be unlawful for any person in immediate control of any animal to permit fecal matter which is deposited by such animal while off of its own premises to remain on any street, alley, sidewalk, lawn, field or any public property, and it shall be solely the responsibility of the person in control of such animal to immediately, after such deposit, remove and dispose of all such fecal matter. Any person owning or having control of an animal on any property, public or private, which is owned or occupied by such person, shall promptly remove excrement left by such animal and place it in a proper receptacle, bury it or flush it in a toilet on property owned or occupied by such person. This shall not apply to a person who is visually or physically handicapped. Any person causing or permitting an animal to be on any property, public or private, not owned or occupied by such person shall have in his immediate possession a device or object suitable for removal of excrement and a depository for the transmission of excrement to the property owned or occupied by such person.
- (2) Complaints of neighbors. If a neighbor complains of fecal odor from a resident's property who owns animals, the health department or Sheriff's Department may issue an order to correct such nuisance. If such nuisance is not corrected, a citation may be issued.
- (3) Filing complaints with the Sheriff's Department. Any adult person, alone or together with other adults, may seek relief from animal fecal matter deposits as described in subsection (m) (1) and (2) by making a complaint to the Sheriff's Department.

(3) Public Nuisances Offending Morals and Decency. The following acts, omissions, places, conditions and things are hereby 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 *subsection (1) of this section*:

- (a) **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.
- (b) **Gambling devices.** All gambling devices and slot machines.
- (c) **Unlicensed sale of intoxicating 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 of Elmwood Park.
- (d) **Illegal drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverage in violation of the laws of the State of Wisconsin or Ordinances of the Village.
- (e) **Continuous violation of ordinances or laws.** 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.

(4) 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 subsection (2) of this Section.

- (a) **Dangerous sign, billboards, etc.** All signs and 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.
- (b) **Illegal building.** All buildings erected, repaired or altered within the fire limits of the Village in violation of the provisions of the Ordinances of the Village, relating to materials and manner of construction of buildings and structures within said district.
- (c) **Unauthorized traffic and railroad devices, signs or signals.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway which purport to be or may be mistaken as an official traffic control device or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of view at intersections or pedestrian crosswalks.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys, driveway approaches or highways from obtaining a clear view of traffic when approaching an intersection, public roadway or pedestrian crosswalk.
- (e) **Low hanging tree limbs.** All limbs of trees which project over and less than fourteen feet above the surface of a public sidewalk or street or less than ten feet about any other public place.
- (f) **Fireworks.** All use or display of fireworks except as provided by laws of the State of Wisconsin and Ordinances of the Village.
- (g) **Dilapidated buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (h) **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 due to 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.

(1) Blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health and safety, crime prevention, fire protection and other public services; and such conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

- (i) **Low hanging wires or cables.** All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) **Loud noises.** All loud, discordant and unnecessary noises or vibrations of any kind, including but not limited to, use of any motorized equipment and/or use of amplified music or stereo equipment either inside or outside of a public or private building in an excessively loud manner or for periods of time that would unduly vexate, harass, or annoy neighbors or bystanders. This section does not apply to yard, driveway and/or home maintenance or building equipment between the hours of 8:00 am and 9:00 pm, excluding the use of snow removal equipment.
- (k) **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 shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (l) **Obstruction 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 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.
- (m) **Open holes.** All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (n) **Accumulations and storage of solid waste.** No person shall accumulate or store on any premises, improved or vacant, or on any open lot, street or alley in the Village any materials considered to be in the category of solid waste. Yard areas and driveways shall not be used to store appliances, furnaces, hot water heaters, water softeners, building materials or other bulky waste not be used within five days. This section in no way affects solid waste being stored on occupied premises for solid waste collection purposes.
- (o) **Storage of firewood.** No person shall store firewood unless it is stored in a straight, orderly pile which is raised a minimum of six inches off the ground and is not more than four feet high. The storage of firewood is limited to two cords which are four feet by four feet by eight feet. Firewood shall not be stored in the front yard and shall not extend beyond the front of the residence in the side yard.
- (p) **Dumping restrictions; conditions of lots.** No person shall dump or dispose of any solid wastes, earth or any other materials on public property except in areas authorized by the building inspector. Clean, non-contaminated earth may be used as fill on private property.

- (q) **Abandoned refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (r) **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 and sidewalks.
- (s) **Snow and ice.** All snow and ice not removed or sprinkled with salt, ashes, sawdust or sand as provided in Section 6.06 of this Code.
- (t) **Flammable liquids.** Repeated or continuous violations of the Ordinances of the Village of laws of the State of Wisconsin relating to the storage of flammable liquids.

(5) Accumulation of Used Motor Vehicles. No person except a licensee of a motor vehicle dealer's license issued under the Wisconsin Statutes shall accumulate or store or allow to remain outside of any building on real estate located within the Village for a period of more than ten (10) days or dump, deposit or otherwise abandon upon any property or upon any highway, street, road, alley or way within the Village any used motor vehicles as motor vehicle is defined by the Wisconsin Statutes or any detached part or parts thereof for which no current registration fee has been paid under State Statutes or which, if paid, does not have property attached thereto under State Statutes a current license plate or plates if so required and which is in condition which would mechanically prevent its immediate operation upon any public highway or its operation thereon would be in violation of the law. Each day that any used motor vehicle as herein defined or any detached part or parts thereof shall be accumulated or stored or allowed to remain contrary to these provisions shall constitute a separate and distinct offense. **(Created October 8, 1987).**

13.03 ABATEMENT OF PUBLIC NUISANCES.

(1) Inspection of Premises. Whenever complaint is made to the Village President, Health Officer, Village Clerk or Village Board Police Liaison (inspecting officer) that a public nuisance exists within the Village, a notification of possible violation shall be submitted to the Village Clerk. The Village Clerk, Health Officer, Village President or Village Board Police Liaison shall then inspect the property to a reasonable extent and prepare a written report of findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk.

(2) Summary Abatement.

- (a) Notice to Owner/Fine. 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 may direct the Village Board Police Liaison that in addition to serving a citation including a fine pursuant to 13.05 herein the Village Police Liaison shall 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 twenty-four (24) hours. The Village may, for good cause, and assuming there is no immediate and severe danger to the public allow a longer time to abate the nuisance. In no event shall the period to abate the nuisance exceed 14 days. The notice shall state the time period in which the nuisance shall be abated 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.

- (b) 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 Inspecting Officer, in case of health nuisances, and the Village Police Liaison, in other cases, shall cause the abatement or removal of such public nuisance on behalf of the Village.

(3) Abatement by Court Action. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Racine County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes.

(4) Other Methods Not Excluded. Nothing in this Ordinance shall be construed as prohibiting the abatement of public nuisances by the Village of Elmwood Park or its officials in accordance with the laws of the State of Wisconsin.

13.04 COST OF ABATEMENT.

In addition to any other penalty imposed by this Ordinance 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.

13.05 PENALTY.

- (a) First Offense – Penalty. Any person or entity who shall violate any provisions of this Ordinance subject to a penalty shall in addition to abatement obligation in 13.03 and 13.04 of this Ordinance shall upon conviction thereof, forfeit not less than \$150.00 or more than \$400.00 for each such forfeiture. Each day of a continuing violation until properly abated shall be a separate violation and fines assessed accordingly. In the event any fine remains unpaid for a period in excess of thirty (30) days the fine, including any and all daily violations until abated shall be placed upon the tax roll of the affected parcel.

- (b) Second Offense – Penalty. Any person found guilty of violating any part of this Ordinance shall, upon conviction of a second violation thereof, forfeit not less than \$850.00 nor more than \$1,150.00 for each such offense. Each continuing or successive violation until properly abated shall be considered as a separate violation and fines assessed accordingly (as a second offense). In the event any fine remains unpaid for a period in excess of thirty (30) days the fine, including any and all daily violations until abated shall be placed upon the tax roll of the affected parcel.