

## 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 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 watercourse, 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 five hundred (500) feet 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 one thousand (1000) feet 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)            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.

(J)            Business. To establish, maintain and carry on any offensive or unwholesome business within the limits of the Village or within one and one-half (1 ½) miles of the limits.

(K)            Filthy Premise Conditions. To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

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

(M) Litter on Streets. It shall be unlawful for any person to deposit or 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 the streets of the Village from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(N) Accumulation of Junk And Trash. To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

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

(P) 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.

(Q) Offensive Liquids. To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(R) Generally. To commit any offense which is a nuisance according to the common law of the land or made such by statute of the State. (See 740 ILCS Secs. 55/221 through 55/222)

**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 maintenance of same shall be dangerous to health.

**25-1-3** **NOTICE TO ABATE.** It shall be the duty of the Chief of Police to serve notice in writing upon the owner, occupant, agent, or person in possession or control of any lot, building or premise in or upon which any nuisance may be found, or who may be the owner or the cause of any such nuisance, requiring him to abate the same within five (5) days in such a manner as the Chief of Police shall prescribe. It shall not be necessary in any case for the Chief of Police to specify in the notice the manner in which any nuisance shall be abated, unless he shall deem it advisable to do so.

**25-1-4** **ABATEMENT OF NUISANCE BY VILLAGE; UNKNOWN OWNER.** It shall be the duty of the Chief of Police to proceed at once upon the expiration of the time specified in the notice to cause such nuisance to be abated, provided, however, that whenever the owner, occupant, agent, or person in possession or control of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Chief of Police shall proceed to abate such nuisance without notice. In either case, the expense of such abatement shall be paid by the person who may have created or suffered such nuisance to exist, in addition to any penalty or fine.

**25-1-5** **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 corporate authorities shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

## ARTICLE II - WEEDS

**25-2-1**            **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Ragweed (giant), Ragweed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp and Johnson 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 or weeds exceeding such height are hereby declared to be a nuisance.

**25-2-3**            **NOTICE.** The Police Department or any other person so designated by the Mayor or Village Board may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant 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 Village 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**            **FORECLOSURE OF LIEN**. Property subject to a lien for unpaid weed cutting charges shall be sold for 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 the lien is in effect for sixty (60) days.

(See 65 ILCS Secs. 5/11-20-6 and 5/11-20-7)

## **ARTICLE III - INOPERABLE MOTOR VEHICLES**

**25-3-1**            **DEFINITIONS.** For the purpose of this Article, the following term(s) shall have the meaning(s) ascribed to them as follows:

**"INOPERABLE MOTOR VEHICLE"** shall mean any motor vehicle which, for a period of at least seven (7) days or any greater period, fixed by this Code, the engine, wheels or other parts have been removed or in which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations; nor shall it apply to any motor vehicle that is kept within a building when not in use nor to any operable historical vehicle over twenty-five (25) years of age nor to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

**25-3-2**            **REGULATIONS; DECLARATION OF NUISANCE.** No person shall park, store, leave or permit the parking, storing or leaving of any vehicle or motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled condition, whether attended or not, upon any property within the Village for a period of time in excess of seventy-two (72) hours. The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or parts thereof on private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Code.

This Section shall not apply to any vehicle enclosed within a building on private property nor to any vehicle held in connection with a business enterprise actively operated with an office on the subject premises and properly operated in the appropriate business zone, pursuant to the Zoning Code of the Village or to any motor vehicle in operable condition specifically adopted or designed for operation on drag strips or raceways. All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance. (Ord. No. 421; 05-07-84)

**25-3-3**            **NOTICE TO ABATE.** Whenever it comes to the attention of the Chief of Police or Health Committee that any nuisance as defined in this Article exists in the Village, a notice in writing shall be served upon the occupant of the land where the nuisance exists, or in case there is no such occupant, then upon the owner of the property or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in Section 25-3-4. (Ord. No. 421; 05-07-84)

**25-3-4**        **NOTICE PROCEDURE.** The Chief of Police or Chief Building and Zoning Official shall give notice of removal to the owner or occupant of the private property where the nuisance is located at least **ten (10) days** before the Village abates the nuisance. It shall constitute sufficient notice when a copy of the notice is posted in a conspicuous place upon the private property on which the inoperable vehicle(s) is located and duplicate copies are sent by certified mail to the owner of the property at his last known address. (**Ord. No. 421; 05-07-84; Ord. No. 697; 11-1-04**)

**25-3-5**        **RESPONSIBILITY FOR REMOVAL.** Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled or inoperative vehicle and the owner or occupant of the property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the Village, the owner or occupant of the private property where the nuisance is located shall be liable for the expenses incurred. (**Ord. No. 421; 05-07-84**)

**25-3-6**        **FAILURE TO COMPLY.** If the owner fails to dispose of the inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Department may authorize a towing service to remove and take possession of the inoperable vehicle(s) or parts thereof.

**ARTICLE IV – ABANDONED GASOLINE SERVICE STATIONS**

**25-4-1**        **DEFINITION.** For the purpose of this Article, the term "**gasoline service station**" is hereby defined to mean any premises utilized, in whole or in part, for the dispensing, sale or offer for sale of automobile fuels and oils. **(Ord. No. 868; 12-5-11)**

**25-4-2**        **PERSONS RESPONSIBLE.** The owner and operator of the gasoline service station, the owner of the property upon which the gasoline service station is located, and in the case of a franchise, or similar arrangement, the company granting the franchise shall all be subject to the provisions of this Article, including requirements for the abatement of nuisances. **(Ord. No. 868; 12-5-11)**

**25-4-3**        **SAFETY AND MAINTENANCE.**

(A)            All structures on the premises upon which the gasoline service station is located shall be kept in good repair and all areas shall be kept entirely free of litter. No gasoline, oil, grease or flammable liquid shall be allowed to accumulate on floor or drive areas or to flow into or be placed in the sewer system. Sawdust or other combustible materials shall not be used to absorb oil, grease or gasoline.

(B)            When a gasoline service station is out of service, temporarily or permanently, the following precautions shall immediately be taken: 1) the fill line, gauge opening, and pump section shall be capped and secured against tampering; 2) all electrical equipment involving the dispenser and pump shall be disconnected from the main distribution panel; and 3) the main vent line shall remain open.

(C)            Gasoline service stations shall adhere to all rules and regulations of the following fire codes:

- (1)        National Fire Prevention Code, 1976 edition Article 16;
- (2)        Flammable and Combustible Liquids Code, the National Fire Protection Association 30, 1981 edition;
- (3)        Flammable and Combustible Liquids Code, the National Fire Protection Association 101, 1976 edition;
- (4)        Gasoline and Volatile Oils, 1977, State of Illinois, Division of Fire Protection. **(Ord. No. 868; 12-5-11)**

**25-4-4**        **ABANDONMENT.**

(A)            Any gasoline service station determined by the Chief Building and Zoning Official or his/her designate to be abandoned shall be deemed a public nuisance which adversely affects surrounding property values and the public safety and welfare. A gasoline service station shall be considered abandoned if it is not operated for at least **three hundred (300) hours** in a

**sixty (60) day** time period. Whenever the Chief Building and Zoning Official or his/her designate shall determine that any gasoline service station is abandoned, he shall immediately notify, either in person or by certified mail, the owner or operator of the premises and issue an order of abatement that must be complied with within **ninety (90) days**. A nuisance caused by abandonment may be abated only as follows:

- (1) Placing the gasoline service station back in operation for a minimum of **six (6) hours** per day, **six (6) days** per week;
- (2) Razing all structures in accordance with the National Fire Protection Association sections B-4-1 and B-4-2 and all ordinances of the Village. After razing, the entire lot must be sodded as soon as weather permits; or
- (3) Making an appropriate application for a change in use of the premises to a permitted or special use. If the proposed use is approved, the owner shall than have a definite time period, as specified by the corporate authorities, to commence operation of the proposed use. If the new use is not commenced within such time period, the nuisance shall be immediately abated under subsection (A)(1) or (A)(2) of this Section. If the proposed use is disapproved, the owner shall do one of the following within **ninety (90) days**:
  - (a) Apply for another proposed use; provided, however, that the Village shall not be required to consider more than **three (3)** proposed uses submitted by the owner; or
  - (b) Abate the nuisance under subsection (A)(1) or (A)(2) of this Section.

(B) Upon failure of the owner to abate the nuisance, the Village may, at it's discretion, among any other remedies it may have at law or equity, abate said nuisance pursuant to the nuisance abate provisions of this Code, issue an ordinance violation citation, or both. **(Ord. No. 868; 12-5-11)**