

CHAPTER 8.00 PUBLIC NUISANCE

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8.01 PUBLIC NUISANCES PROHIBITED.

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

8.02 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) 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. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
 - b. Carcasses of animals, birds or fowl not intended for human consumption or foods, which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
 - c. 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.
 - d. All stagnant water in which mosquitoes, flies or other insects can multiply.
 - e. Privy vaults and garbage cans which are not fly tight.
 - f. All noxious weeds and other rank growth of vegetation.

- g. All animals running at large.
 - h. 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 there from in such quantities as to endanger the health of persons of ordinary sensitiveness or to threaten or cause substantial injury to property in the Village.
 - i. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other circumstances.
 - j. 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.
 - k. All abandoned wells not securely covered or secured from public use.
 - l. Any use of property which shall cause any nauseous or unwholesome liquid or substances to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
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 subsection (1) of this section:
- a. 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. All buildings erected, repaired or altered within 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. 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 an official traffic control device, railroad sign 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. 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.

- e. All limbs of trees, which project over and less than 10 feet above the surface of a public sidewalk or street or other public place.
- f. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- g. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, and unsanitary or otherwise unfit for human use.
- h. All wires over streets, alleys or public grounds, which are, strung less than 18 feet above the surface thereof.
- i. All loud, discordant and unnecessary noises or vibrations of any kind.
- j. 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.
- k. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- l. All abandoned refrigerators, iceboxes or other containers, which have airtight doors from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- m. Any unauthorized or unlawful use of property abutting on 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.
- n. Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.
- o. Depositing of any material on public rights of way, parks, storm sewer system, or publicly owned property. Material shall include but not limited to sand, stone, concrete, wood, grass, dirt, garbage, petroleum products, and toxins. (#99-24)

8.03 DUTCH ELM DISEASE CONTROL.

- A. PUBLIC NUISANCE. The Board declares the following to be public nuisances:

1. Any living or standing elm tree or part thereof infected with an elm tree disease.
 2. Any dead elm tree or part thereof, including logs, stumps, branches, 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.
- B. RIGHT OF ENTRY. Every owner or occupant of real estate in the Village shall permit authorized employees or agents of the Village to enter upon said real estate at all reasonable times for the purpose of inspecting trees or tree material and the taking of samples and specimens there from.
- C. TREATMENT OF DISEASE. If an inspection made as above provided and subsequent laboratory tests discloses that any tree or tree material are infected with the disease or fungus or infected with the vector, the Village shall give notice to the owner or occupant in writing to have such infected tree materials and such diseased tree treated or cut down and destroyed by burning within 5 days of such written notice. If the owner does not so destroy or treat such infected tree or material or so cut down, destroy such infested or diseased tree within 5 days after such notice is given, then the same shall be so destroyed or treated by the Village employees or its agents on order of the Village. An accurate record of the expense of such treating, cutting, hauling and burning shall be made and a report given to the Village Clerk, 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 taxes upon real estate. If an inspection and subsequent laboratory tests made as above provided disclose that the tree materials are not infected with the fungus or infected with the vector, the Village shall notify the owner that the tree materials are not infected or infested, but may require the owner to treat such tree materials within 5 days of the giving of such notice in the manner indicated therein. The owner shall notify the Village in writing of his compliance with said notice. If the owner does not comply with any notice given as provided herein within 5 days after the same is given, then on order of the Village, such tree materials shall be treated by the Village employees or its agents or removed and destroyed by burning. An accurate account of the expense of treating, removal and burning of such tree material shall be kept and a report made to the Village Clerk who shall enter the amount thereof on the tax roll as provided above.
- D. KEEPING, SELLING DISEASED ELM TREE MATERIAL PROHIBITED. No person shall keep, store, sell, offer for sale, give away, or transfer any elm tree material, which is infected with the fungus or infected with the vector, or transport the same except for the purpose of destroying. No person shall store or permit to exist on the premises any elm tree materials for more than 7 days during the period from April 15 of each year through the following October 15 unless the same shall have been treated with an insecticide approved by the Village or from which all bark has been thoroughly removed.

- E. BURNING DEAD ELMS REQUIRED. Every owner or occupant of real estate shall cause any dead elm or part thereof, including limbs, branches, stumps, to be cut, trimmed, removed, and destroyed by burning at an approved site and manner. The Village shall give notice to the owner in writing to have such dead tree or tree materials cut down and destroyed by burning within 5 days of receipt of such written notice. If the owner does not so destroy such dead tree or tree material within such 5-day period, then the same shall so be destroyed or treated by Village employees or agents. An accurate record of expense of such cutting, trimming, hauling and burning shall be made and a report given to the Village Clerk, who shall enter the amount thereof on the tax roll as provided above.
- F. SPRAYING. In the event that Dutch Elm Disease has been identified or found to be present in the Village or in areas adjacent to the Village, the Village may order the spraying or other treatment of such elm trees located on private or public property which it shall in its discretion deem necessary in order to prevent further spreading of said disease, such spraying or other treatment shall be done under the supervision of the Village or its authorized agents. An accurate record of the expense of the spraying or treating of elm trees located on private property shall be made and a report given to the Village Clerk, who shall enter the amount thereof on the tax roll as provided above.
- G. DISPOSAL AREA PROVIDED. The Village shall provide and designate a suitable area for the treatment, disposal and burning of elm tree material cut or originating from within the Village. All elm tree material delivered to said disposal area shall be burned within 7 days during the period from April 15 of each year through the following October 15. Village employees shall perform said treatment or burning of elm material. No person shall remove tree material from this area. The Village shall cause said disposal area to be posted by signs informing the public of the specific purpose of said area and warning them of the penalties for violation of the provisions herein.
- H. INSPECTIONS. The Village may employ qualified persons to conduct periodic inspections of elm trees and elm tree material within the Village in order to discover infections by Dutch Elm Disease.

8.04 ABATEMENT OF PUBLIC NUISANCES.

- A. ENFORCEMENT. The Chief of Police, the Chief of the Fire Department, the Building Inspector and Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
- B. SUMMARY ABATEMENT. 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 officer shall cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

- C. ABATEMENT AFTER NOTICE. 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 serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within such 10 days, the proper officer shall cause the nuisances to be removed as provided in sub. (B).
- D. OTHER METHODS NOT EXCLUDED. The Village or its officials in accordance with the laws of the State of Wisconsin shall construe nothing in this chapter as prohibiting the abatement of public nuisances.
- E. COURT ORDER. Except when necessary under sub. (B), no officer hereunder shall 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.

8.05 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.

8.06 ANIMAL CONTROL. (#07-01)

- A. ANIMALS NOT TO RUN AT LARGE.

No animal shall be allowed to run at large. "At large" means an animal is off the premises of its owner and upon any public street or alley, school grounds, public park or other public grounds, or upon any private property without the permission of the owner of the property. An animal shall not be deemed "at large" if the following provisions apply:

1. It is attached to a leash not more than 10 feet in length, which is of sufficient strength to restrain the animal and the leash is held by a person competent to govern the animal and prevent it from annoying or worrying pedestrians or trespassing on private property or trespassing on public property where such animals are forbidden.
2. It is properly restrained within a motor vehicle.

3. It is a certified law enforcement dog engaged in official duties or training.

B. LICENSING OF DOGS AND CATS.

1. The provisions of Chapter 174, Wisconsin Statutes, exclusive of any penalties, are adopted by reference and made a part of this Code so far as applicable.
2. It shall be unlawful for any person in the Village to own, harbor, or keep any cat or dog more than five (5) months of age, that has not been licensed by the Village. License fees shall be set by Resolution. (#03-13)
3. It shall be unlawful for any person to own, harbor, or keep a dog in the Village, which is over five (5) months of age and does not have a current rabies vaccination as required by Section 95.21 (2) Wis. Stats. or to own, harbor or keep a cat in the Village, which is over five (5) months of age and does not have current rabies vaccination issued by a veterinarian. A rabies vaccination tag shall be attached to the collar of all licensed dogs at all times, except as provided in Section 95.21 (2)(f), Wis. Stats. (#03-13)
4. No more than two (2) dogs and two (2) cats may be licensed for any one residence. Exceptions may be requested by application to the Plan Commission and Village Board for a Conditional Use permit or PUD amendment.

C. OFFENSES AGAINST PEACE, ORDER, OR SAFETY.

1. General Prohibitions.

It shall be unlawful for any person to own, harbor or keep any dog which:

- (a) Habitually pursues vehicles upon any street, alley or highway.
- (b) Molests passersby or assaults or attacks any person without provocation.
- (c) Is at large.
- (d) Habitually barks or howls to the annoyance of any person or persons.
- (e) Kills, wounds or worries any domestic animal.
- (f) Goes outdoors without valid license and rabies tags attached to the collar, unless the dog is securely confined in a fenced area.

2. Untagged animals.

Police officers are authorized to capture and restrain any dog or cat running at large and any untagged dog, and to transfer the animal to the custody of the

Washington County Humane Society. This does not preclude the immediate killing of a dog for the protection of other animals and persons, as authorized by s. 174.01.

3. **Duty to Report Animal Bite.** Every person, including the owner or person harboring or keeping a dog or other animal, who knows that such animal has bitten any person shall immediately report such fact to the police department.
4. **Quarantine or Sacrifice of Animals Suspected of Biting a Person or Being Infected with Rabies.**
 - (a) A police officer shall order a dog or cat quarantined if the officer has reason to believe that the animal bit a person, is infected with rabies or has been in contact with a rabid animal. If a quarantine cannot be imposed because the animal cannot be captured, the officer may kill the animal. The officer may kill an animal only as a last resort or if the owner agrees. The Officer shall attempt to kill the animal in a humane manner and in a manner which avoids damage to the animal's head. If a quarantine is ordered, the owner of the dog or cat shall be subject to the provisions of s. 95.21
 - (b) A police officer may order killed or may kill an animal other than a dog or cat if the officer has reason to believe that the animal bit a person or is infected with rabies.
 - (c) A police officer may order killed or may kill a dog or cat if the owner of the dog or cat violates the quarantine provisions of s. 95.21(5)(a),(b), or (c).
5. **Setting Animals at Large Prohibited.** No person may open any door or gate of a private premises for the purpose of setting a dog or other animal at large, except a the owner of such animal.
6. **Removal of Waste.** The owner or person walking a dog or cat shall remove and dispose of any deposited excrement immediately after such dog or cat deposits it on the property of another or on public property.

D. KEEPING OF VICIOUS DOGS REGULATED.

1. **Vicious Dog Defined**

- (a) Any dog with a propensity, tendency or disposition to attack, cause injury or otherwise endanger the safety of human beings or other domestic animals as evidenced by its habitual or repeated chasing or snapping, or barking and/or snarling in a threatening manner.
- (b) Any dog which attacks a human being or another domestic animal without provocation.

2. **Requirements and Prohibitions.**

- (a) **Leash and Muzzle.** No person owning, harboring or having the care of a vicious dog may suffer or permit such dog to go outside its kennel or pen unless the dog is securely leashed with a leash no longer than 4 feet in length. No person may permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. The dog may not be leashed to inanimate objects such as trees, posts and buildings. A vicious dog on a leash outside the dog's kennel shall be muzzled by a muzzling device sufficient to prevent the dog from biting persons or other animals.
- (b) **Confinement.** All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in par. (a) above. The pen, kennel or structure shall have secure sides and a secure top attached to all sides. A structure used to confine a vicious dog shall be locked with a key or combination lock when the dog is within the structure. The structure shall have a secure bottom or floor attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than 2 feet. All structures erected to house vicious dogs shall comply with all applicable municipal zoning and building regulations. All structures shall be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (c) **Confinement Indoors.** No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the building on its volition. No vicious dog may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dog from exiting the structure.
- (d) **Prohibited in Multiple Dwellings.** No vicious dog may be kept within any portion of any multiple dwelling.
- (e) **Signs.** All owners, keepers or harborers of vicious dogs shall display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." A similar sign is required to be posted on the kennel or pen of the dog.
- (f) **Insurance.** All owners, keepers or harborers of vicious dogs shall provide proof to the Chief of Police of public liability insurance in a single incident amount of \$50,000 for bodily injury to or death of any person or for the damage to property owned by any person which may result from the ownership, keeping or maintenance of vicious dogs. The insurance policy shall provide that no cancellation of the policy will be made unless a 10-day written notice is first given to the Chief of Police. The owner or custodian of the dog shall produce evidence of the required insurance upon request of a law enforcement officer.
3. **Vicious Dog Determination.** The Chief of Police or designee shall investigate every dog complaint and make a determination as to whether or not such dog is "vicious," as defined in sub. (1) In the event the Chief of Police makes a determination that a dog is "vicious," he shall so inform the owner, keeper or harbinger of such dog and provide such person with a copy of this section.

4. **Appeal of Vicious Dog Determination.** Any person aggrieved by the determination of the Chief of Police, as provided in sub. (3) above, may appeal such determination with the Village of Jackson Village Board.
5. **Disposition of Vicious Dogs.** Any law enforcement officer of the Village may take custody of an animal if the officer has reasonable grounds to believe the animal is one of the type set forth in sec. 173.13(1)(a) 1. thru 9. Wis. Stats. Subject to review by the circuit court, the animal, if taken into custody because it is hopelessly injured, an imminent threat to public health or safety, or the health or safety of itself or its custodians, shall be turned over to the appropriate agency for euthanization. This does not preclude the immediate killing of a dog for the protection of other animals and persons, as authorized by sec. 174.01 Wis. Stats.
6. **Keeping Of Wolf-Dog Hybrids Prohibited.** No wolf-dog hybrid, defined as any cross-breed resulting from the mating of a domesticated dog and a wolf, coyote, jackal or dingo or resulting from the mating of any wolf-dog hybrid and another wolf-dog hybrid or a domesticated dog, may be kept within the village.

E. ANIMAL WELFARE

1. **Keeping Outdoors**

- (a) The quarters outside of the dwelling unit in which the dogs and cats are kept shall be maintained in a clean condition and in a good state of repair and provide adequate protection from the weather.
- (b) Dog or cat pens or enclosures shall be large enough to provide freedom of movement to the animals contained therein.
- (c) Food supplies outside of the dwelling unit shall be stored in a rodent-proof container, and food and water containers shall be kept clean.
- (d) Litter and or bedding material, outside of the dwelling unit, shall be changed as often as necessary to prevent an odor nuisance.
- (e) Feces shall be removed from yards, pens, and enclosures once every 48 hours to prevent health problems and shall be stored in a tightly covered metal container until final disposal.
- (f) Yards, pens, premises, and animals shall be kept free of insect infestations.
- (g) No odor nuisances shall be permitted.
- (h) Motor vehicles or garages shall not be used as proper shelter under the provisions of the section, except that during winter months a doghouse may be placed inside a garage for additional shelter.

2. **Cruelty**

- (a) No person shall directly or indirectly cruelly beat, frighten, overburden, neglect or abuse any animal or bird, or use any device or chemical substance by which pain, suffering or death may result, whether the animal or bird belongs to the person or another. This section does not apply when reasonable force is used to drive off vicious or trespassing animals; treatment or euthanasia performed by a veterinarian; the use of Mace® and similar products for the protection of persons or other animals; or training devices when used as directed by the manufacturer.
- (b) The owner of any animal shall provide or obtain treatment should the animal be injured or ill.
- (c) No person shall abandon or transport in a cruel manner any animal or bird.

3. Food and Water

- (a) No person owning or having custody of any animal or bird may neglect or fail to provide it with necessary nourishing food at least once daily, and provide a constant supply of clean water to sustain the animal or bird in good health.

4. Shelter

- (a) No person may fail to provide any animal or bird in his or her charge with shelter from the inclement weather to insure the protection and comfort of the animal or bird
- (b) When sunlight is likely to cause overheating or discomfort to any animal or bird, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun, but still allow air to pass to keep the animal cool.
- (c) Dogs and cats kept outdoors for more than one (1) hour at a time shall be provided with moisture proof and wind proof shelter of a size which allows the animal to turn around freely and to easily sit, stand and lie in a normal position, and to keep the animal clean, dry and comfortable. Whenever the outdoor temperature is at or below 40 degrees Fahrenheit, clean dry bedding material shall be provided in such shelters for insulation, and to retain the body heat of the animal.
- (d) Any area where an animal is housed, or allowed to remain shall be kept clean of feces, animal waste and other substances in order to keep the animal healthy and comfortable.

5. Leashes

- (a) Chains, ropes or leashes shall be placed or attached in a manner that they not be entangled with another animal or object and shall be of sufficient length in proportion to the size of the animal to allow the animal proper exercise and convenient access to food, water and shelter.
- (b) A leash shall be located so as not to allow the animal to trespass on public or private property, or in such manner as to cause harm or danger to persons or other animals. A leash shall be located so as not to allow the animal to jump over an obstacle where the

leash can become entangled and the animal be harmed in any manner

6. **Enforcement.** The police department is authorized to remove animals from premises for violation of any part of this section. Animals removed because of such action shall be turned over to the Washington County Humane Society.

8.07 Smoking Prohibited.

- A. **§101.123 Wisconsin Statutes (Smoking prohibited) is hereby adopted by reference.**
- B. **The person in charge of any restaurant, tavern, private club or retail establishment subject to this ordinance and the smoking restrictions in §101.123 Wisconsin Statutes may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club or retail establishment where customers, employees or persons associated with the restaurant, tavern, private club or retail establishment may smoke.**
- C. **No person shall, without permission of the owner or lessee of any public or private property, use tobacco products thereon contrary to a posted sign if such sign is in plain view on the property or at the entrances to the property. Owners and lessees of property may prohibit, restrict, or limit smoking on their property at their discretion unless smoking is already prohibited by this section and/or §101.123 Wisconsin Statutes. (#10-05)**

8.08 Penalty.

Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as provided in 21.04 of this Municipal Code. (#10-05)