

## CHAPTER 6 – PUBLIC NUISANCES

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## 6.1 PUBLIC NUISANCES PROHIBITED.

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

## 6.2 PUBLIC NUISANCE DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- (2) In any way render the public insecure in life or in the use of property.

- (3) Greatly offend the public morals or decency.
- (4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

### 6.3 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places conditions and things are hereby-specifically declared to be health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of sec. 6.02 of this Code:

#### (1) ADULTERATED FOOD.

All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

#### (2) UNBURIED CARCASSES.

Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.

#### (3) BREEDING PLACES FOR VERMIN, ETC.

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.

#### (4) STAGNANT WATER.

All stagnant water in which mosquitoes, flies or other insects can multiply.

#### (5) PRIVY VAULTS AND GARBAGE CANS.

Privy vaults and garbage cans which are not fly-tight.

#### (6) NOXIOUS WEEDS.

All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot.

#### (7) WATER POLLUTION.

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

(8) NOXIOUS ODORS, ETC.

Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, 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.

(9) STREET POLLUTION.

Any use of property that shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, pathway, or public place within the Village.

(10) FEEDING OF WILD GAME ANIMALS AND WATERFOWL.

Placing, depositing, or allowing the placement of, any material that feeds or attracts wild game animals, to include deer, or waterfowl, to include ducks and geese, for the purposes of hunting or for non-hunting purposes including recreational and supplemental feeding.

6.4 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 sec. 6.02 of this Code:

(1) DISORDERLY HOUSES.

All disorderly houses, bawdy houses, houses of ill fame, gambling houses, and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) GAMBLING DEVICES.

All gambling devices and slot machines.

(3) UNLICENSED SALE OF LIQUOR AND BEER.

All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Village.

(4) CONTINUOUS VIOLATION OF VILLAGE ORDINANCES.

Any place or premises within the Village where Village ordinances or state laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly and intentionally violated.

(5) ILLEGAL DRINKING.

Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village.

6.5 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 definition of sec. 6.02 of this Code.

(1) SIGNS, BILLBOARDS, ETC.

All signs and billboard, awning and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) ILLEGAL BUILDINGS.

All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of buildings and structures within the Village.

(3) UNAUTHORIZED TRAFFIC SIGNS.

All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as 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.

(4) OBSTRUCTION OF INTERSECTIONS.

All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) TREE LIMBS.

All limbs of trees which project over and less than ten (10) feet above any public sidewalk, street or other public place.

(6) DANGEROUS TREES.

All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(7) FIREWORKS.

All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.

(8) 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.

(9) WIRES OVER STREETS.

All wires over streets, alleys, or public grounds which are strung less than fifteen (15) feet above the surface thereof.

(10) NOISY ANIMALS OR FOWL.

The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.

(11) OBSTRUCTIONS OF STREETS; EXCAVATIONS.

All obstructions of streets, alleys, pathways, 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 of time after the purpose thereof has been accomplished, or do not conform to the permit.

(12) UNLAWFUL ASSEMBLY.

Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

6.6 LOCATION, CONSTRUCTION AND MAINTENANCE OF PRIVY VAULTS, CESSPOOLS AND SEPTIC TANKS.

- (1) No person shall build any surface privy, dry closet, cesspool or septic tank or other method of sewage disposal, or cause the same to be built, located, placed, or constructed on any lot or premises within the Village limits.
- (2) The Building Inspector shall enforce the provisions of this section and see that all violations thereof are promptly abated and the violators prosecuted. The Village Police Chief, the Village Attorney, and the Health Board shall assist the Plumbing Inspector in enforcing this section.

## 6.7 DUTCH ELM DISEASE CONTROL.

### (1) DUTCH ELM DISEASE AND ELM BARK BEETLES DECLARED PUBLIC NUISANCES.

Whereas the Village Board has determined that there are many elm trees growing on public and private premises within the Village of Lac La Belle, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the Village and that the health and life of such trees is threatened by a fatal disease known as Dutch Elm disease which is spread by the elm bark beetles *Scolytus Multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.), the Board hereby declares its intention to control and prevent the spread of such disease and the insect pests and vectors which carry such disease and declares Dutch Elm disease and the elm bark beetles which carry such disease to be public nuisances.

### (2) VILLAGE FORESTER.

The office of Village Forester is hereby created to be filled by appointment by the Village President subject to confirmation by the Village Board. The Village Forester shall have the powers and perform the duties imposed by this section and by Chapter 27 of the Wisconsin Statutes and other statutes.

### (3) DEFINITIONS.

As used in this section, unless otherwise clearly indicated by the context:

- (a) PUBLIC NUISANCE. Means:
  - (i) Dutch Elm disease.
  - (ii) Elm bark beetles *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
  - (iii) Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus or in a weakened condition that harbors any of the elm bark beetles, *Scolytus multistriatus* (Eichb.) or *Hylurgopinus rufipes* (Marsh.).
  - (iv) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.
- (b) PUBLIC PROPERTY. Means premises owned or controlled by the Village; including without limitation because of enumeration, public sites, parks, playgrounds, streets,

alleys, sidewalks, boulevards, and the terrace strip between the lot line and the curb or between the right-of-way line and the traveled portion of the public way of any public highway.

#### (4) INSPECTION.

- (a) The Village Forester shall inspect or cause to be inspected at least twice each year all premises and places within the Village to determine whether any public nuisance exists thereon. He shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the Dutch Elm disease or any elm tree bark bearing material reported or suspected to be infested with elm bark beetles.
- (b) Whenever necessary to determine the existence of Dutch Elm disease or elm bark beetles in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid permanent injury thereto and deliver such specimen to the forester who shall forward them to the Wisconsin Department of Agriculture at Madison for analysis to determine the presence of such nuisances.
- (c) The Forester and his agents or employees shall have authority to enter upon private premises at reasonable time for the purposes of carrying out any of the provisions of this section.

#### (5) ABATEMENT OF NUISANCES: DUTY OF FORESTER.

- (a) The Forester shall order, direct, supervise and control the abatement of public nuisances as defined in this section by removal, burning or by other means that he determines to be necessary to prevent as fully as possible the spread of Dutch Elm disease fungus or the insect pests or vectors known to carry such disease fungus.
- (b) Whenever the Forester after inspection or examination shall determine that a public nuisance as herein defined exists on public property in the Village, he shall immediately abate or cause the abatement of such nuisances in such manner as to destroy or prevent as fully possible the spread of Dutch Elm disease or the insect pests or vectors know to carry such disease fungus.
- (c) NOTICE AND HEARING.
  - (i) When the Forester shall determine with reasonable certainty that a public nuisance exists upon private premises (or upon the terrace strip between the lot line and the curb) or upon the right-of-way line, he shall immediately serve or cause to be served personally or by registered mail upon the owner of such property (or the abutting property) if he can be found, or upon the occupant thereof, a written notice of the existence of such nuisance and of a time and place for a hearing, not less than fourteen (14) days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommended procedures for its abatement, and shall further state that



unless the owner shall abate the nuisance in the manner specified in the notice, or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of elm trees in the Village, the Forester shall cause the abatement thereof at the expense of the property served (or abutting property). If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village.

- (ii) If after hearing held pursuant to the subsection it shall be determined by the Forester that a public nuisance exists, eh shall forthwith order the abatement thereof. Unless the property owner abates the nuisance as directed within seven (7) days after such hearing, the Forester shall proceed to abate the nuisance and cause the cost there of to be assessed against the property in accordance with the procedures provided in this ordinance. The Forester may extend the time allowed to property owner for abatement work but not to exceed fourteen (14) additional days.

#### (6) COST OF TREE CARE: SPECIAL ASSESSMENTS.

- (a) The cost of abatement of a public nuisance shall, at the direction of the Forester, if the nuisance, tree or wood is located on public property be borne by the Village except the cost of abating a public nuisance located on the terrace strip between the lot line and the curb or located on any right-of-way between said right-of-way line and the traveled portion of the public highway shall be assessed to the abutting property as hereinafter provided.
- (b) The cost of abating a public nuisance located on private premises when done at the direction and under the supervision of the Forester shall be assessed to the property on which such nuisance, tree or wood is located as follows:
  - (i) The Forester shall keep a strict account of the cost of such work and the amount charged to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the Village Board on or before October 15 of each year.
  - (ii) Upon receiving the Forester's report, the Village Board shall hold a public hearing on such proposed charges, giving at least fourteen (14) days advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the Village and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against his premises and the work for which such charge is being made.
  - (iii) After the hearing, the Village Board shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published.

Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.

- (iv) The Village Clerk shall mail notice of the amount of such final assessment to each owner of property assessed at his last known address, stating that unless paid within thirty (30) days of the date of the notice, such assessment shall bear interest at the rate of six percent (6%) per annum and will be entered on the tax roll as delinquent tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
- (v) The Village hereby declares that in making assessments under this section, it is acting under its police power and no damages shall be awarded to any owner for the destruction of any diseased or infested elm tree or elm wood or part thereof.

#### (7) PROHIBITED ACTS AND PENALTIES.

Any person who does any of the following acts within the Village of Lac La Belle shall be subject to section 15.04 of this Code.

- (a) Transports any bark bearings elm wood, bark or material on public streets or highways or other public premises without first securing the written permission of the Forester.
- (b) Interferes with or prevents any acts of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this section.
- (c) Refuses to permit the Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this section.
- (d) Permits any public nuisance to remain on any premises owned or controlled by him when ordered by the Forester to abate such nuisance.

### 6.8 ABATEMENT OF PUBLIC NUISANCES.

#### (1) 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 such 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 nuisance does in fact exist.

#### (2) 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 President may direct the proper officer to cause the same to be abated and change the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(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 serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisances to be removed as provided in subsection (2).

(4) OTHER METHODS NOT EXCLUDED.

Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.

## 6.9 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.

## 6.10 STORAGE OF JUNKED MOTOR VEHICLES PROHIBITED.

(1) STORAGE A NUISANCE.

It is hereby declared and found that abandoned, junked, discarded, dismantled and unregistered motor vehicles upon private property within the Village are detrimental to the public health, welfare and safety. Such vehicles constitute an attractive nuisance to children and are a peril to their safety, depreciate the value of neighboring properties and constitute a fire hazard. The purpose of this Section is to terminate such practices.

(2) STORAGE PROHIBITED.

No person, either as owner, lessee, occupant or otherwise, shall store or deposit, or cause or permit to be stored or deposited, an abandoned, junked, discarded, dismantled or unregistered motor vehicle in and upon any private property, street or government property within the Village. This Section shall not prohibit the parking an unlicensed motor vehicle or motorcycle in a private garage.

(3) DEFINITION.

For purposes of this ordinance, the definitions of “abandoned”, “junked”, “discarded”, “dismantled” and “unregistered” motor vehicles include, but are not limited to any vehicles that are incapable of being self-propelled upon the public streets, vehicles whose owners cannot be identified, and those vehicles that are without current license plates.

6.11 – 6.19 RESERVED.

6.20 PENALTY.

Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall, in addition to abatement provisions expressly provided for in this Chapter, be subject to penalties as provided in sec. 15.04 of this Code.