

CHAPTER 5

PUBLIC NUISANCES

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5.01 PUBLIC NUISANCES PROHIBITED

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

5.02 DEFINITION OF 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:

- (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.

5.03 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 section 5.02 of this chapter.

- (1) All decayed, harmfully adulterated or unwholesome food or drink offered for sale to the public.

(2) 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 24 hours after death.

(3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, package material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(4) All stagnant water in which mosquitoes, flies or other insects may multiply.

(5) Privy vaults and garbage cans which are not flytight.

(6) All noxious weeds and other rank growth of vegetation.

(7) All dogs running at large.

(8) 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.

(9) 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.

(10) Any use of property, substances or things within the Village of Boaz emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench 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.

(11) All abandoned wells not securely covered or secured from public use.

(12) All animals or fowl kept within the Village of Boaz in violation of this section.

5.04 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 Section 5.02 of this chapter.

(1) All disorderly houses, bawdy houses, houses of ill fame, buildings or structures kept or resorted to for the purposes of prostitution or promiscuous sexual intercourse.

(2) All gambling devices and slot machines.

(3) 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 Boaz.

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

(5) 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.

5.05 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) All signs and billboards, 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) 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.

(3) 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.

(4) All limbs of trees which project over and less than seven (7) feet above the surface of a public sidewalk or street or any other public place.

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

(6) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.

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

(8) All loud, discordant and unnecessary noises or vibrations of any kind.

(9) 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.

(10) 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.

(11) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(12) All abandoned refrigerators or ice boxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(13) 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.

(14) Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.

(15) All snow and ice on sidewalks not removed or sprinkled with ashes, sawdust or sand.

(16) All radio transmission units and other electronic devices which are used in such a way as to interfere with the radio and television reception of other residents in the village.

(17) All trees, rocks, fences or other objects located within the right of way of any public street, alley or highway, regardless of whether the street, alley or highway is actually built.

5.06 ABATEMENT OF PUBLIC NUISANCES

(1) Inspection of Premises. Whenever a complaint is made to any officer or employee of the Village that a public nuisance exists within the Village of Boaz, the person receiving said notice shall promptly notify the Village President who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Village Board. 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. 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 that the Village Clerk serve notice on the person causing, permitting or maintaining such nuisance or the owner of occupant of the premises to abate or remove such nuisances within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the costs 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 Village Board shall cause the abatement or removal of such public nuisance.

(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 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 behalf of the Village in the Circuit Court of Richland County in accordance with the provisions of Chapter 823, Wisconsin Statutes.

(4) Razing Buildings. As an alternative to other methods of abatement provided in this Chapter, the Village Board may order the owner of premises upon which is located any building or part thereof within the Village of Boaz which in its judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use and so that it would be unreasonable to repair them, to raze and remove such building or part thereof, or if it can be made safe by repairs, to repair and make safe and sanitary or to raze and remove, at the owner's option; or where there has been a cessation of normal construction of any building or structure for a period of more than two years, to raze and remove such building or part thereof. The issuance of any raze or repair order shall comply with the requirements of Wis. Stat. 66.0413.

(5) Other Methods Not Excluded. Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Village of Boaz or its officials in accordance with other laws of the State of Wisconsin not enumerated in this Chapter.

5.07 COST OF ABATEMENT

In addition to any other penalty imposed by this section for the erection, contrivance, creation, continuance or maintenance of 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 costs shall be assessed against the real estate as a special charge.

5.08 JUNK AND CERTAIN VEHICLES, RECREATIONAL EQUIPMENT.

(1) Public Nuisances Declared. The following are hereby declared to be public nuisances wherever they may be found within the Village.

- (a) Any motor vehicle, truck body, tractor or trailer as enumerated in subs. (3) and (4) below and defined in sub. (2)(a), (b) and (c) below.
- (b) Any junk stored contrary to sub. (5) below.
- (c) Any recreational equipment stored contrary to sub. (6) below.

(2) Definitions. The words, phrases and terms used in this section shall be interpreted as follows:

- (a) Disassembled, Inoperable, Junked or Wrecked Motor Vehicles, Truck Bodies, Tractors, Trailers. Motor vehicles, truck bodies, tractors or trailers in such state of physical or mechanical ruin as to be incapable of propulsion or being operated upon the public streets or highways.
- (b) Unlicensed Motor Vehicles, Truck Bodies, Tractors or Trailers. Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.
- (c) Motor Vehicle. As defined in section 4.05(1) of this Code.
- (d) Junk. Worn out or discarded material of little or no value including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, discarded building materials or any other unsightly debris, the accumulation of which has an adverse effect upon the neighborhood or Village property values, health, safety or general welfare.
- (e) Recreation Equipment. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.
- (f) In the Open. Land which may be viewed from public streets or adjoining property.

(3) Storage Of Inoperable Vehicles, Etc. No person shall accumulate, store or allow any disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open upon any public or private property in the Village for a period exceeding 10 days.

(4) Storage Of Unlicensed Vehicles, Etc. No person except a person issued a permit under Chapter 4 of this Code, shall accumulate, store or allow any unlicensed motor vehicle, truck

body, tractor or trailer in the open upon any public or private property in the Village for a period exceeding 10 days.

(5) Storage Of Junk Prohibited. No person, except a person issued a permit under ch. 4 of this Code, shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the Village.

(6) Storage Of Recreational Equipment Regulated. No person shall store any recreational equipment on any street right of way for a period of more than 48 hours.

(7) Issuance Of Citation; Action To Abate. Whenever the Village's law enforcement officer or the Village Board shall find any such vehicle, junk or recreational equipment, as defined in sub. (2) above, accumulated, stored or remaining in the open upon any property within the Village contrary to the provisions of subs. (3), (4), (5) and (6) above, the officer or the Board shall notify the owner of said property on which such material is located of the violation of this section. If such vehicle, junk or recreational equipment is not removed within 10 days, or such other time as may be given, the officer or Board shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle, junk or recreational equipment is located. In addition, action to abate such nuisance may be commenced, as provided in sec. 5.06(3).

(8) Penalty. Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a forfeiture as provided in ch. 10 of this Code plus the costs of said prosecution. Each day that a violation of this section continues shall be deemed a separate offense.

5.09 DISEASED AND INFECTED TREE CONTROL.

(1) Public Nuisances Declared. The following are hereby declared to be public nuisances where they may be found within the Village.

- (a) Any living or standing tree or part thereof infected with the Dutch Elm Disease or other tree diseases.
- (b) Any dead, diseased or infected tree or part thereof, including logs, branches, stumps, firewood or other material from which the bark has not been removed and burned or sprayed with an effective fungicide or insecticide.

(2) Nuisances Prohibited. No person shall permit any public nuisance, as defined in sub. (1) above, to remain on any premises owned or controlled by him within the Village.

(3) Inspection. The Village's Weed Commissioner or any other official authorized by the Village Board may enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this section.

(4) Abatement Of Disease Nuisances.

- (a) Whenever it shall be found, with reasonable certainty on examination or inspection, that any public nuisance, as defined in this section, exists within the Village, he shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of the disease fungus or the insect, pests or vectors known to carry such disease.
- (b) Before abating any such nuisance on private premises or in any terrace strip between the lot line and the curb, the inspector shall proceed as follows:
 - (i) If the inspector shall determine that danger to other trees from said nuisance is not imminent, he shall have a written report of his or her findings to the Village Board, who shall proceed as provided in s. 27.09(4), Wis. Stats.
 - (ii) If the inspector shall determine that danger to other trees within the Village is imminent, he or she shall notify the owner or abutting owner of the property on which such nuisance is found, in writing, if such owner can be found, otherwise by publication in a newspaper of general circulation in the Village that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice unless the inspector shall find that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limit, the inspector shall cause the abatement thereof.
- (c) No damage shall be awarded to the owner for destruction of any tree, wood or material or any part thereof pursuant to this section.

(5) Assessment Of Costs Of Abatement.

- (a) The entire cost of abating any public nuisance, as defined in sub. (2) above may be charged to and assessed against the parcel of lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with Wis. Stat. sec. 66.0627.
- (b) The inspector shall keep strict account of the costs of work done under this section and shall report monthly to the Clerk all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Clerk shall include in his or her report to the Village Board the aggregate amounts chargeable to each lot or parcel so reported, and such

amounts shall be levied and assessed against such parcels or lots in the same manner as other special assessments or charges.

5.10 WEED AND LAWN CONTROL.

(1) Noxious Weeds And Rank Growth Prohibited.

- (a) No owner or occupant of any lot or parcel shall allow such property to become overgrown with any weeds or grass so as to constitute a public nuisance, as defined in sec. 5.01 of this Code.
- (b) No owner of property within the Village shall permit the lawn or vegetation on such property to exceed the height of eight (8) inches. This section shall apply whether the property is occupied or unoccupied.

(2) Notification. The Village President may annually, on or before May 15, publish a Class 2 notice, under Ch. 985, Wis. Stats., that every person is required by law to destroy all noxious weeds and other rank growth of vegetation, as defined in sec. 5.03(8) of this chapter, on land in the Village which he or she owns, occupies or controls.

(3) Enforcement. If a property owner fails to control the growth of such weeds, lawn or rank growth of vegetation on his or her property, the Weed Commissioner shall serve upon him or her notice as to this fact. If such owner fails to abate this nuisance within 5 days after service of the notice, the Weed Commissioner shall take action to abate such public nuisance.

(4) Costs. If the Village causes a nuisance to be removed as provided in sub. (3) above, the actual cost thereof, together with an administrative fee equal to 10% of the actual cost, shall be charged to the property owner. If such charges are not paid by November 15 of the year in which they are billed, such charges, together with an additional administrative fee for collection equal to 10% of the total of such charges and fees, shall be extended on the next succeeding tax roll as a tax charged against the property affected and collected in the same manner as are other taxes.

5.11 SNOW AND ICE REMOVAL.

(1) Responsibility Of Owner Or Occupant. The owner or occupant of every lot or parcel of land in the Village in front of or abutting upon a sidewalk shall clear such sidewalk of snow and ice within twenty-four (24) hours after such snow or ice has accumulated thereon. In the event snow or ice shall become frozen so hard it cannot practically be removed, the owner or lessee shall sprinkle the sidewalk with sand, salt, sawdust or other suitable material and shall clean such sidewalk as soon as weather permits.

(2) Deposit Of Snow Regulated. Except for business places having no front setback, no person shall deposit or cause to be deposited any snow or ice taken and removed from his premises or elsewhere upon any sidewalk, alley, parkway, public place or street in the Village. Snow shall not be piled at or near intersections so as to obstruct the view of pedestrians or operators of motor vehicles.

(3) Removal By Village. Failure to remove snow and ice, as required under sub. (1) above, or the deposit of any snow or ice upon any sidewalk, alley or street of the Village contrary to the provisions of sub. (2) above shall be and is declared to be a nuisance and, in addition to the penalty provided for violation of this section, the Village may summarily remove any snow or ice so accumulated or deposited and cause the cost of said removal to be charged to the owner or occupant of the property from which said snow or ice has been removed. If not paid within 30 days, such charge shall be extended upon the current or next tax roll as a delinquent property tax, as provided in Wis. Stat. sec. 66.0627.

5.12 BURNING RESTRICTED. No person shall kindle any fire within the Village without first securing a written permit from the Village Clerk or any Village Trustee. This section shall not apply to any fire kindled in a fire pit not exceeding three (3) feet in diameter, burn barrel, outdoor furnace, gas grill or charcoal grill unless the fire exceeds a flame height of six (6) feet, in which case a burn permit shall be required.

5.13 PENALTIES

Any person violating any provision of this chapter except where another penalty applies shall, upon conviction thereof, forfeit not less than \$20.00 nor more than \$500.00, together with the cost of prosecution and any and all applicable court costs, assessments and fees imposed by law. The deposit for a first violation shall be \$20.00 and for a second or further violation within one year of the date on which the first offense occurred the deposit shall be \$50.00. Each day or part of a day on which a public nuisance in violation of this section exists may be deemed a separate offense. In default of payment of the forfeiture imposed and costs, the violator may have his or her operator's license suspended for up to five (5) years or until such forfeiture and costs are paid.