

Title 12 PUBLIC NUISANCES

ARTICLE I. IN GENERAL

12-1-1. Public nuisances prohibited.

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

12-1-2 A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (B) In any way render the public insecure in life or in the use of property;
- (C) Greatly offend the public morals or decency; or
- (D) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

12-1-3 *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 general definition of this section.

- (A) *Adulterated food.* All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.
 - (B) *Unburied carcasses.* Carcasses of animals, birds or fowl not intended for human consumption or food that are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
 - (C) *Breeding places for vermin, etc.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin may breed.
 - (D) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.
 - (E) Privy vaults and garbage cans. Privy vaults and garbage cans which are not flytight.
 - (F) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the village 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.
 - (G) Noxious weeds. All noxious weeds as defined in 66.0517(1) Wis. Stats. In addition, other rank growth of vegetation, and all weeds, grasses and plants over twelve inches in height excluding trees and shrubs, which:
 - (1) Detract from the surrounding area and properties.
 - (2) Become a possible fire hazard, as determined by the Fire chief.
 - (3) Become a health hazard due to their pollen or potential cover for disease – carrying rodents and other small animals.
 - (4) Are of an infectious or poisonous nature in or adjacent to a populated area, regardless of height.
 - (5) Become a potential hazard to vehicular traffic in vision clearance triangles.
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- (H) blank.
- (I) *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.
- (J) *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 annoys, discomforts, injures or inconveniences the health of any appreciable number of persons within the village.
- (K) *Street pollution.* Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.
- (L) *Pesticide Application.* The application, or causing of the application, of any pesticide, as defined in 94.67(25) Wis. Stats. In such manner as to endanger the health of persons within the village.

12-1-4 *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.

- (A) *Disorderly houses.* All disorderly houses, bawdy houses, houses of ill-fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution or promiscuous sexual intercourse, gambling or sale and/ or use of controlled substances as defined in Ch. 961, Wis. Stats (1).
- (B) *Gambling places.* All gambling devices and slot machines.
- (C) *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 this code.
- (D) *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.
- (E) *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.

12-1-5 *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.

- (A) *Signs, billboards, etc.* All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (B) *Illegal 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.
- (C) *Unauthorized traffic signs.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public roadway or railway crossing which purport to be or may be mistaken as official traffic control devices, railroad signs or signals or which, because of its color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.
- (D) *Obstructions 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.
- (E) Trees and shrubs.

- (F) *Dangerous trees.* All trees which are injurious to public health or safety because of diseased or damaged condition, and the storage of cut elm wood, unless such wood is debarked or sprayed with an effective bark beetle destroying insecticide.
- (G) *Tree limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.
- (H) *Fireworks.* All use or display of fireworks, except as provided by the laws of the state and ordinances of the village.
- (I) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.
- (J) *Wires and cables over streets.* All wires and cables over streets, alleys or public grounds that are strung less than 15 feet above the surface thereof.
- (K) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the village.
- (L) *Obstructions of streets.* 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 or do not conform to the permit.
- (M) *Snow, ice, and debris removal.* All debris not removed and all snow and ice not removed or sprinkled with salt, ashes, sawdust, or sand.

- (N) *Open pits, basements, etc.* All open and unguarded pits, wells, excavations, and basements.

- (O) *Flammable liquids violations.* Repeated or continuous violations of this code or laws of the state relating to the storage of flammable liquids.

- (P) *Open cisterns, basements or other dangerous excavations.* No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person; and any cover shall be of a design, size and weight that the same cannot be removed by small children.
- (Q) *Unlawful assemblies.* Any unauthorized or unlawful use of a public street, alley or sidewalk, or of property abutting thereon, which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (R) *Abandoned or unattended ice boxes, etc., prohibited.* No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device that may not be released from the inside without first removing such door or lid, snap lock or other locking device from such ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

12-1-6 Junk, Certain Vehicles and Firewood.

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

- (1) Any motor vehicle, truck body, tractor or trailer as enumerated in Subsections C and D below and defined in Subsection B below.
- (2) Any junk stored contrary to Subsection E below.
- (3) Any firewood used or stored contrary to Subsection F below.

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

DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR 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.

IN THE OPEN Land which may be viewed from public streets or adjoining property.

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.

Junk. Junk means items that in their present state are of little or no apparent or objective economic value, including but not limited to discarded or scrapped furniture; glass, metal, paper, or machinery parts; inoperative machinery, electronics or appliances; building material; litter; discarded or empty containers; discarded brush and other vegetative matter.

MOTOR VEHICLE

As defined in § 340.01(35), Wis. Stats.

UNLICENSED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS

Motor vehicles, truck bodies, tractors or trailers which do not bear lawful current license plates.

C. Storage of inoperable vehicles, etc.

(1) Restricted. 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.

(2) Exceptions.

(a) Any business engaged in automotive sales or repair located in a properly zoned district may retain no more than five disassembled or wrecked vehicles, including vehicles under repair, in the open for a period not to exceed 30 days, after which such vehicles shall be removed.[1]

D. Storage of unlicensed vehicles, etc.

(1) Restricted. No person 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.

(2) Exceptions.

(a) Any business engaged in the sale, repair or storage of such unlicensed vehicles.

(b) Garden tractors and mowers may be stored in the rear yard not less than 10 feet from any property line.

E. Storage of junk prohibited. No person, shall accumulate, store or allow any junk outside of any building on any public or private real estate located in the Village.

- F. Storage of firewood. No person shall store firewood on any residential premises except for use on the premises. No firewood pile may be located within the front setback. No firewood pile shall exceed four cords and firewood shall be neatly stacked.
- G. Issuance of citation; action to abate. Whenever the Police Chief shall find any such vehicle or junk, as defined in Subsection B above, accumulated, stored or remaining in the open upon any property within the Village contrary to the provisions of Subsections C, D and E above, or firewood stored contrary to Subsection F above, he shall notify the owner of said property on which such vehicle, junk or firewood is located of the violation of this section. If such vehicle, junk or firewood is not removed within 10 days, the Police Chief shall cause a citation to be issued to the property owner or the occupant of the property upon which such vehicle, junk or firewood is located. In addition, action to abate such nuisance may be commenced.
- H. 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 § 1-4 of this Code plus the costs of said prosecution and, upon default of payment of such forfeiture and costs, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation of this section continues shall be deemed a separate offense.
- A. Enforcement. It shall be the duty of the Chief of Police, the Fire Chief, and a health officer to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, including the issuance of citations, and they shall make periodic inspections and inspections upon complaint to ensure 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 shall have satisfied himself that a nuisance does, in fact, exist.

B. Summary abatement. (1)

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 the Chief of Police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(2)

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 officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

C. 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 and the owner of the property to remove the same within 10 days. If such nuisance is not removed within 10 days, he shall report such fact to the Village President, who may direct the Village Attorney to commence an action in Circuit Court for the abatement of the nuisance.

D. 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 nor as prohibiting an action to be commenced in the Circuit Court seeking a forfeiture.

E. 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.

12-1-8 Weed Control A. Noxious weeds and rank growth prohibited. 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.

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

D. Costs. If the Village causes a nuisance to be removed as provided in Subsection C above, the actual cost thereof as provided in the Village fee schedule, 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, pursuant to § 66.0517, Wis. Stats.

A. The Village of Neosho promulgates ordinances controlling the existence of public health nuisances within the Village of Neosho limits and makes reasonable rules for the enforcement of the provisions of this chapter. Any person violating any of the regulations of this chapter shall be subject to a penalty provided in § 1-4 of this Code. B.

Any health nuisance may be abated. [1]

§ 12-1-15 Violations and penalties.

In addition to the remedy for abatement provided in this chapter, any person who shall violate any provision of this chapter, or permit or cause a public nuisance, shall be subject to a penalty as not less than \$100, nor more than \$500 together with cost of prosecution, court costs and applicable fees, assessments, and surcharges.

12-1-9. Official warning and notice.

- (a) *Warning notice.* Whenever three or more nuisance activities occur at a premises on separate days during a 60-day period, the chief may notify the premises owner in writing. The chief shall not count nuisance activities that were reported by the owner of the premises. This notice shall contain:
- (1) The street address or legal description sufficient for identification of the premises.
 - (2) A description of the nuisance activities and enforcement actions that have occurred at the premises and a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises.
 - (3) A statement that the premises owner shall personally meet with the chief per the abatement plan contained in section 26-38.
 - (4) Notice of section 26-40 owner appeal rights if additional nuisance activity occurs and special charges are invoiced.
- (b) *Service of notice.* The written notice shall be delivered to the owner of the premises by one of the following methods in descending order of preference: personal service, certified mail, first-class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, as applicable, as the chief may determine appropriate under the particular facts and circumstances.

12-1-10. Abatement plan.

Any owner receiving a notice of nuisance activity shall personally meet with the chief within five business days of receipt of such notice, or have the meeting scheduled. The chief and owner shall review the problems occurring upon the premises and/or property. Within ten days of this meeting, the owner shall submit to the chief a detailed written abatement plan designed to forthwith and effectively end all the nuisance activity upon the premises. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the premises who can be contacted in the event of further village personnel contact with the premises.

The owner of the premises shall maintain a current list of all tenants, occupants, residents, and sublessees authorized to occupy the building or buildings on such property. The owner of the premise will provide a sample copy of their lease agreement used for the premises. The owner of the premises will maintain a detailed inspection log of the premises. Upon verbal or written request to the owner, the lease agreement, tenant list, and inspection log shall be made available to the chief within 48 hours. The owner shall comply with other reasonable requests made by the chief. The abatement plan will be in effect for a 12-month period. If additional nuisance activity occurs on the premises, the abatement plan may be continued by the chief for an additional 12-month period.

12-1-11. Additional nuisance activity.

Whenever additional nuisance activity has occurred at a premises for which notice has been issued by the chief pursuant to the section 26-37 above and this additional nuisance activity has occurred not less than 13 days nor more than 180 days after notice was served, and that reasonable efforts have not been made to abate the nuisance activity, the chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge. Responses and enforcement costs including, but are not limited to, actual burdened labor, overtime, materials, vehicle use, related administrative time and efforts for this and any subsequent nuisance activities and enforcement actions upon, for and/or pertaining to the premises. Response and enforcement costs will be standardized by November 1 of every year by the village clerk-treasurer and will be placed in an addendum attached to the ordinance from which this article derived.

12-1-12. Appeal.

- (a) *Appeal by affected property owner.* An affected owner of the premises may appeal the chief's determination and invoiced special charges arising from and imposed for the police and related costs, fees and expenses set forth in this article, and the attached addendum to the ordinance from which this article derived, in the manner set forth in this subsection.
- (b) The appeal shall be in writing, filed with the village clerk-treasurer, stating with specificity the grounds for the appeal and the relief requested. The appeal shall be filed within 60 days of the invoice from the village clerk-treasurer.
- (c) The appeal shall be considered only if filed prior to the time that any unpaid special charges imposed against the premises/property under this article are turned over by the treasurer onto the tax roll.
- (d) Wis. Stats. ch. 68 shall not apply to such an appeal nor shall any other provision of state law or village ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.
- (e) Upon receipt of the written appeal, the clerk-treasurer shall set the matter for a public hearing for a regularly scheduled meeting of the common council not less than 30 days nor more than 60 days after the filing of the written appeal.
- (f) The clerk-treasurer shall provide written notice to the appellant and to the chief, of such common council meeting hearing date, time and place.
- (g) The parties may agree to continuances and stipulations as to procedure and substance, but in no event shall the hearing be continued beyond the time set forth in subparagraph (c).
- (h) The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven years by the village clerk-treasurer. A party may request a court reporter but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.
- (i) The appellant and the chief may each present witnesses who testify upon oath after being duly sworn in by the village clerk-treasurer, the deputy village clerk-treasurer or any other person authorized by law to administer oaths.
- (j) After the hearing, the common council in open session shall deliberate and then make a determination by recorded motion, second and vote with a majority of council members voting governing.
- (k) The village clerk-treasurer shall adjust all invoices, tax and related village records in accord with the council's determination.

12-1-13. Violations, penalties, and other matters.

In addition to the special charges authorized and described above, the following penalties, remedies and other relief are cumulative and not exclusive, may be jointly and severally sought and/or employed by the village, and may be ordered and/or imposed, as applicable, by the courts:

- (1) *First offense.* Any person who shall violate any provision of this article or any regulation, rule, or order made hereunder shall forfeit and pay to the village not less than \$150.00 nor more than \$2,000.00, together with the costs of prosecution.
- (2) *Subsequent offenses.* Any person who shall violate any provision of this article or any regulation, rule, or order made hereunder within 24 months after committing a previous violation shall forfeit and pay to the village not less than \$250.00 nor more than \$3,000.00, together with the costs of prosecution.
- (3) The village, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, abatement, and such other legal and/or equitable relief, remedies, judgments, and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time, deem necessary, appropriate

and/or desirable to effectuate the intent of this article and the public good, peace, order, welfare, and/or safety.

- (4) In addition to the above penalties, relief and remedies, the common council may refuse to issue or not renew any license or permit to the owner of the premises and/or the premises, after conducting a public hearing.
- (5) It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premises property as expeditiously as possible, unless otherwise directed by the village or the court.
- (6) This article is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under village ordinances, state statutes, state administrative codes, and common law, including, but not limited to, forfeiture of the property to the village under this article and/or the applicable state statutes.

Any health nuisance may be abated. [1]

§ 12-1-15 Violations and penalties.

In addition to the remedy for abatement provided in this chapter, any person who shall violate any provision of this chapter, or permit or cause a public nuisance, shall be subject to a penalty as not less than \$100, nor more than \$500 together with cost of prosecution, court costs and applicable fees, assessments, and surcharges.