

## **CHAPTER 12 NUISANCES**

**12.01 PUBLIC NUISANCES PROHIBITED.** No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the village or within the police jurisdiction of the village.

**12.02 PUBLIC NUISANCES DEFINED.**

- (a) General. 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.
- (b) Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of sub-section (a) of this section:
1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
  2. Carcasses of animals, birds or fowl 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, packing material, abandoned vehicles or machinery, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;
  4. All stagnant water in which mosquitoes, flies or other insects can multiply;
  5. Garbage cans which are not fly-tight;
  6. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the village limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property; or any act in violation of the Illinois Environmental Protection Act. (Ch 111 1/2, Sec. 1001 et seq. I.R.S.)
  7. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;
  8. Any use of property, substances or things within the village emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, 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. All abandoned wells or cisterns not securely covered or secured from public use;
  10. Any barn, stable or shed used for keeping animals;
  11. Any obstruction in or across any watercourse, drainage ditch or ravine;
  12. The deposit of garbage, rubbish, or any offensive substance on any street, sidewalk or public place, or on any private property, except as may be permitted by ordinance;
  13. Any noxious weeds on private property, as defined by Chapter 18 of the Illinois Revised Statutes.
- (c) 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 subsection (a) of this section:
1. All disorderly houses, bawdy houses, house of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling, except video gaming terminals as provided for in section 2 hereof; (ordinance 2021-01)
  2. All gambling devices and slot machines, except for any video gaming terminal for which a license or permit has been issued by the Illinois Gaming Board and is operated in full compliance with the Video Gaming Act, including but not limited to video gaming terminals and the equipment ancillary thereto. (ordinance 2021-01)
  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 this code;
  4. Any place or premises within the village where ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (d) 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 (a) of this section:
1. 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;
  2. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing;
  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 a public sidewalk less than 8 feet above the surface thereof or less than 10 feet above the surface of a public street;

5. All use or display of fireworks except as provided by the laws of the State of Illinois and ordinances of the village;
6. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary 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 of the street or ground;
8. All loud and discordant noises or vibrations of any kind;
9. 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 length of time after the purpose thereof has been accomplished;
10. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;
11. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing only with the strength of a small child;
12. 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;
13. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street or other private or public property without permission of the owner thereof;
14. Any structure, material or condition which constitutes a fire hazard or will impair the extinguishing of any fire;
15. Any nuisance so defined by the Illinois Revised Statutes.

### **12.03 DUTCH ELM DISEASE.**

- (a) Inspection. The officers, agents, and employees of the village may enter upon private property whereon there is located any elm tree having the appearance of or suspected of being diseased with the Dutch Elm disease, for the purpose of inspecting the suspected tree and removing therefrom samples or portions thereof to be tested to establish whether the tree is in fact diseased.
- (b) Nuisance. If it is determined by the village that the tree from which samples have been taken is in fact diseased or infected with the Dutch Elm disease, the tree shall be deemed a nuisance.
- (c) Destruction of Affected Trees. The owner, occupant, or agent of the parcel of land on which the diseased elm tree exists, shall remove and destroy the elm tree within 10 days after notification to such owner, occupant, or agent, by the village that the elm tree situated on said parcel of land is in fact diseased and infected.
- (d) Abatement by Village. In case the owner, occupant or agent of the parcel of land on which a diseased elm tree is located cannot be found, or if found and notified as aforesaid, neglects or refuses to abate the nuisance, the village may abate the same by the removal and

- (e) destruction of the diseased elm tree, and the owner, occupant and agent or any of them, shall be charged with those expenses which may be incurred by the village in the removal of the diseased elm tree, which expenses shall be collected by the village by suit, or otherwise. In addition the owner, occupant or agent shall be subject to the fine or penalty provided in this section.
- (f) Lien for Removal Costs. The cost of removal and destruction of a diseased elm tree is a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens, provided that notice has been given as hereinafter described, and further provided that within 60 days after such cost and expense is incurred the village, or person performing the service by authority of the village, in his own name, files notice of lien in the office of the Recorder of Deeds of McLean County. The notice shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof. (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the village. Upon payment of the cost and expense by the owner or persons interested in such property, after notice of lien has been filed, the lien shall be released by the village, or person in whose name the lien has been filed, and the release may be filed on record as in the case of filing notice of the lien. The cost of such tree removal shall not be a lien upon the real estate affected unless a notice shall be personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property, such notice to be delivered or sent not less than 30 days prior to the removal of the tree or trees located thereon. The notice shall contain the substance of this section and identify the property, by common description, and the tree or trees affected.
- (g) Penalty. Any person who shall violate any of the provision of this section or who shall neglect or refuse to remove and destroy a diseased elm tree growing on any parcel of land of which such person is owner, agent, occupant, or person in possession, when ordered to do so, or who shall interfere with the removal and destruction of such diseased elm tree, shall be subject to the penalty provided for violation of this code.

#### **12.04 WEEDS /Grass.**

- (a) Definition. "Weeds" as used in this section shall include the following: burdock, ragweed (giant), ragweed (common), thistle, cocklebur, jimson, blue vervain, common milk weed, wild carrot, poison ivy, mild mustard, rough pigweed, lambsquarter, hemlock and wild hemp, and all other weeds of a like kind.
- (b) Owner Required to Cut Weeds / grass. Every owner of real estate within the village shall cut weeds and or grass on his property at all such times as may be necessary so that such weeds shall not exceed 6 inches in height. If the owner neglects or refuses to so cut the weeds / grass, the Superintendent of Public Works shall cause the weeds/ grass to be cut on behalf of the village.

#### **12.05 \_REMOVAL NOTICE.**

Any owner or occupant of land on which a nuisance or condition described in Section 12.04 (a) and (b) preceding exists is hereby required to remove or cause the removal of the condition within seven (7) days after the mailing of a written notice notifying the owner of the condition, indicating that such a condition constitutes a nuisance and ordering the removal of the condition within the 7-day period provided or such shorter time as the public health, safety, and welfare requires. Said notice shall be served in accordance with Section 1.06 of this Municipal Code to the last known address of the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this subchapter. In lieu of mailing, notice of requirement of removal may be hand delivered and the requirements shall be the same as if mailed.

## **12.06 ABATEMENT OF NUISANCE.**

If the person served by the notice required by Section 12.05 preceding does not abate the nuisance within seven days, the Village may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

## **12.07 LIEN PROCEDURES.**

The Village may charge the owner with the costs so incurred and such costs shall be a lien on the premises. If the costs or expenses remain unpaid 30 days after a bill has been rendered, the Village may file a Notice of Lien in the office of the Recorder of Deeds of McLean County. Such notice shall consist of a sworn statement setting out a description of the real estate, sufficient for identification; the amount of money representing the cost and expense incurred or payable for the service; and the date or dates when such cost or expense was incurred by the municipality. This lien shall be superior to all other liens except taxes, provided however, it shall not be valid as to any purchaser whose right to such real estate has arisen subsequent to the date on which such costs were incurred and prior to the filing of such notice and a lien of the Village shall not be valid as to any mortgages, judgment, creditor, or other lien or whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the costs and expenses by the owner or any other person interested in such property and after Notice of Lien has been filed, the lien shall be released by the Village and the release may be filed of record as in the case of filing the Notice of Lien. The lien may be enforced by proceeding to foreclosure as provided by law. The failure of the Village to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien, for unpaid bills for weed cutting, as provided for in the provisions hereinafter set forth.

- (A) Property subject to a lien for unpaid weed cutting charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosures shall be by bill in equity in the name of the Village.
- (B) The Village Attorney shall institute such proceedings authorized in this Section, in the name of the Village, in any court having jurisdiction over such matter when so directed by resolution of the Village Board.

## **12.08 GARBAGE AND REFUSE.**

- (a) The owner, occupant or lessee of any premises in the village shall remove from his premises or otherwise dispose of, all garbage, ashes, rubbish and refuse, and shall keep the premises free and clear of any accumulation of any such refuse.
- (b) Pending disposal of garbage from any premises, the garbage shall be deposited in watertight containers with close fitting covers. Pending disposal from any premises, cans, bottles, metalware, and similar inorganic household rubbish shall be deposited in rigid containers. All garbage and refuse shall be so stored as not to invite insects or rodents or be unsightly or a nuisance.
- (c) Pursuant to 415 ILCS 5/9 ( c ): No person shall cause the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency...except that the Board may adopt regulations permitting open burning of refuse in certain areas.  
Cross Reference: Chapter 42.

- (d) No person shall deposit any garbage, rubbish or refuse on any street or public place, or on any public or private property not his own except at any dump site which may be authorized by the Board of Trustees.
- (e) No person shall bury any garbage within the village.

#### **12.08-1 GARBAGE, REFUSE AND RECYCLING COLLECTION RATES.**

- (a) Goodfield Disposal provides garbage disposal for residences in the Village and there is hereby established the following rate for residential garbage and refuse collection. The initial charge to the Village for such service has been established at Fourteen Dollars (\$14.00) per month per residence. (Ordinance 2018-02) (Ordinance 2021-03)
- (b) The Village will collect from each residential water account using the garbage disposal service the sum of Fourteen Dollars (\$14.00) per month for garbage and refuse and (\$2.00) per month for recycling. Every residential water account shall be required to pay said sum, regardless of whether the resident makes actual use of the garbage, refuse and recycling service. An exception would be if a customer's water is turned off by the village, then the garbage, refuse, and recycling charges would be discontinued until the water service is resumed. Commercial, industrial and nonresidential water accounts shall not be required to pay the garbage, refuse and recycling charges if they have a separate agreement for garbage and refuse services. Said sum of Fourteen Dollars (\$14.00) and (\$2.00) per month to be collected by adding said sum to the bill of each water customer of the Village as a service charge. Rates effective May 1, 2021. (Ordinance 2018-02) (Ordinance 2019-10) (Ordinance 2021-03)

#### **12.09 ENUMERATION NOT EXCLUSIVE.**

The various nuisances described and enumerated in this Chapter shall not be deemed to be exclusive, but shall be in addition to all other nuisances described and prohibited by this code. Statutory Reference: Power of Village to define, prevent, and abate nuisances, 65 ILCS 5/11-60-2.

#### **12.10 NUISANCES TO BE REMOVED.**

Any person causing a nuisance, as defined in Section 12.02 through 12.08 preceding, and the owner occupant, or lessee of land on which any nuisance exists, are required to remove or abate the condition immediately upon knowledge of its condition. The correction shall be made within the time of 24 hours enumerated in the notice of violation from the Village. In all cases, it shall be the ultimate responsibility of the owner of the premises on which a nuisance exists to correct the nuisance. If after knowledge of a 12.02 through 12.08 nuisances and after the expiration of the notification provided therein, the condition remains, the Village may remove or cause the removal of the condition, keeping a record of the costs incurred. (65 ILCS 5/11-60-2)

#### **12.11 EXCESSIVE ENGINE BRAKING NOISE.**

- (A) It shall be a nuisance for any driver of a commercial vehicle as defined in Section 1-111.8 of the Illinois Motor Vehicle Code to operate or actuate any engine braking system that emits excessive noise within the Village of Carlock. This prohibition does not apply to the use of an engine braking system that has an adequate sound muffling system in proper working order that prevents excessive noise.
- (B) It is a defense to this Section that the driver used an engine braking system that emits excessive noise in an emergency to avoid a collision with a person or another vehicle on the roads or highways within the Village limits of the Village of Carlock.

- (C) The Village of Carlock shall post such “excessive engine braking noise prohibited” signs throughout the Village as deemed appropriate from time to time by the Board of Trustees of the Village of Carlock.

#### **12.99 PENALTY; LIEN.**

- (A) Any person who violates any provision of this Chapter shall, on conviction thereof, be subject to the general penalty provision, Section 1.06, of this Municipal Code. Each day during which a violation continues shall constitute a separate punishable offense.