

AN ORDINANCE AMENDING THE VILLAGE OF INNSBROOK'S PUBLIC NUISANCE ORDINANCE BY THE ADDITION OF SUBSECTIONS RELATING TO THE USE OF PROPERTY AND WASTEWATER TREATMENT SYSTEMS

WHEREAS, § 67.398 RSMo authorizes municipalities to regulate and abate public nuisances located on private property; and

WHEREAS, On March 13, 2012 the Village of Innsbrook approve Ordinance 158 establishing offenses that shall be deemed public nuisances; and

WHEREAS, The Village of Innsbrook desires to expand its nuisance ordinance so as to better protect the public health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF INNSBROOK, AS FOLLOWS:

SECTION 1. Ordinance No. 158, the Municipal Code of the Village of Innsbrook, Missouri is hereby amended by the addition of the following words and phrases in bold type:

AN ORDINANCE ESTABLISHING OFFENSES THAT SHALL BE DEEMED PUBLIC NUISANCES.

ARTICLE I. OFFENSES CONCERNING PUBLIC NUISANCE

A) PUBLIC NUISANCE DEFINED.

- a) Any fence, wall, shed, deck, house, garage, building, structure or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk subspace, dock, wharf or landing dock; or any lot, land, yard, premises or location which in its entirety, or in any part thereof, by reason of its condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to any one or more individuals in the Village, in any one or more of the following particulars:
 - 1) by reason of being a menace, threat and/or hazard to the general health and safety of the community;
 - 2) by reason of being a fire hazard;
 - 3) by reason of being unsafe for occupancy, or use on, in, upon, about or around the aforesaid property;
 - 4) by reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists;

- b) The following acts, in addition to any others in violation of (a) above are determined by the Board of Trustees as noisome, offensive, unwholesome, or dangerous to the public's health, welfare and/or safety and shall constitute a public nuisance:
- 1) putrid, offensive, or unhealthy substances, including but not limited to stagnant water, allowed to accumulate or remain on private property;
 - 2) garbage, trash, waste, junk or debris allowed to accumulate or remain on private property;
 - 3) vacant, unused or unoccupied buildings and structures within the Village, which are allowed to become or remain open to entrance by unauthorized persons or the general public, because of broken, missing, or open doors, windows, or other openings, so that the same may be used by vagrants or other persons in a manner detrimental to the health and welfare of the inhabitants of the Village;
 - 4) dangerous buildings, mobile homes, or other structures unfit or unsafe for human occupation;
 - 5) any refrigerator, icebox or deep freeze locker having a capacity of one and one-half cubic feet or more or any other container manufactured, custom made or homemade designed for storage which is stored, discarded, abandoned or left in any place accessible to children and which has not had the door or latching mechanism removed to prevent the latching or locking of the door;
 - 6) any cars, trucks or other vehicles, except such vehicles that are regularly driven on public or private roads or off road, which are stored, discarded, disabled, left or abandoned in an area which is visible from any private or public street, roadway or thoroughfare or which blocks or otherwise interferes with the use of any private or public street, roadway or thoroughfare or ingress or egress to and from private or public property or structures thereon;
 - 7) an animal pen or enclosure kept in an unsanitary or unclean condition;
 - 8) any condition that alters the natural flow of water creating a dangerous condition on public or private property;
 - 9) any pit, basin, hole, or other excavation which is unguarded and dangerous to life, or has been abandoned, or is no longer used for the purpose for which it was constructed, or is maintained contrary to law.
 - 10) **any premises upon which any of the following acts or conditions have occurred or continue to occur, whether by the owner, occupants or persons frequenting or congregating about the property:**

- i. more than one occurrence within a 60-day period of peace disturbance, resulting in a written complaint filed with the Warren County Sheriff's Department or the Village Administrator. "Peace Disturbance" as used in this subsection herein shall include any violation of 574.010.1 RSMo, as amended, which is incorporated herein by reference;
 - ii. more than one occurrence within a 60-day period of incidents of loud noise emitted from electronic equipment of any type including radios and televisions on the premises or any parked vehicles belonging to the owner, occupants or persons frequenting the premises plainly audible at a distance of 50 feet outdoors, or which disturbs persons residing within the area resulting in a written complaint filed with the Warren County Sheriff's Department or the Village Administrator except when an event noise variance has been obtained;
 - iii. more than one occurrence within a 60-day period of vehicles parking in a manner that creates a traffic safety risk or which blocks a property owner's ingress or egress to their property resulting in a written complaint filed with the Warren County Sheriff's Department or the Village Administrator;
 - iv. more than one occurrence within a 60-day period of vehicles parking on any surface other than pavement or gravel, excluding instances when the vehicle is temporarily being used to load or offload material;
 - v. each act or thing done or made, permitted, allowed or continued on any property, public or private, by any persons or corporation, their agents or employees, to the damage or injury of any of the inhabitants of this Village, and not specified above resulting in written complaint filed with the Warren County Sheriff's Department or the Village Administrator.
- 11) any premises upon which there exists a wastewater system or an on-site sewage disposal system where any of the following acts or conditions have occurred or continue to occur:
 - i. a non-functioning or malfunctioning sewage disposal system;
 - ii. a wastewater or private sewage disposal system not meeting the requirements of §§ 701.025 through 701.059 RSMo, as amended, and 19 CSR 20-3.010 through 19 CSR 20-3.080, as amended, which are incorporated herein by this reference;
 - iii. any discharge of untreated waste water onto owners property, adjacent properties, or on to any rivers, creeks, ponds, streams, sloughs, lakes or other watercourse.

B) SUMMARY ABATEMENT OF NUISANCES

- a) Procedure. Whenever a written complaint is filed with the Village Administrator of the existence of a public nuisance, the Village Administrator shall verify that the alleged nuisance exists. A written report of the alleged violation shall be submitted along with photographs to the Village Attorney. Enforcement shall commence by providing notice to the owner of the property **and, if the property is not owner-occupied, to any occupant of the property**, of the public nuisance existing on his/her/its property. The notice shall be delivered by **first class mail** or by personal delivery. The notice shall specifically describe the nature of the nuisance, the location of the property (using the mailing or popular address rather than a legal description, when reasonably possible to do so), and, ordering the property owner to, within a period of **a minimum of** ten days from the receipt of the notice, abate the nuisance.
- b) If, after proper notice is served, the alleged nuisance is not satisfactorily resolved the Village Attorney **may** proceed with filing said **information** with the **Warren County Circuit Court, Village of Innsbrook Municipal Division**.

SECTION 2: This Ordinance shall be in full force and effect from and after its passage and approval by the Chairman.

SECTION 3: If any portion of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the ordinance defining public nuisance and in no way affects the validity of the remainder of the ordinance.

This Bill was passed and approved this 10th day of April, 2018, by the Board of Trustees of the Village of Innsbrook after having been read by title or in full two times prior to passage.

Jeffery S. Thomsen, Chairman
Village of Innsbrook Board of Trustees

ATTEST:

Carla Ayala
Village Administrator/Clerk

(Seal)