

## **CHAPTER 10 PUBLIC NUISANCES**

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### **Chapter 10 Board Action**

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Adopted December 20, 2011 as part of Village Incorporation

Amended August 5, 2013, Ordinance No. 2013-O-07

Repealed & Recreated May 2, 2016, Ordinance No. 2016-O-04

### **10.01 LEGISLATIVE DECLARATION.**

The Village Board of the Village of Bloomfield finds that public nuisances exist in the Village of Bloomfield in the operation of certain establishments and in the use or alteration of property in violation of the building code, fire code, zoning code, and public health, safety, and general welfare laws and ordinances, all of which interfere with the interest of the public and the quality of life and total community environment, the tone of commerce in the Village, property values, and the public health, safety, and welfare. The Village Board further finds that the continued occurrence of such activity is detrimental to the health, safety, and welfare of the people of the Village of Bloomfield and of the businesses thereof, and visitors thereto. It is the purpose of the Village Board to create one standardized procedure for securing legal and equitable remedies related to the subject matter encompassed by this Chapter, without prejudice to the use of or procedures available under existing and subsequently enacted ordinances or statutes, and to strengthen existing ordinances on the subject.

### **10.02 PUBLIC NUISANCE PROHIBITED.**

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

### **10.03 PUBLIC NUISANCE DEFINED.**

A 'public nuisance' is a thing, act, occupation, condition, or use of property that continues for such length of time or under such conditions 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 or enjoyment of property.
- 3) Greatly offend the public decency.
- 4) Unlawfully and substantially interfere with, obstruct or intend 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.

### **10.04 PUBLIC NUISANCES.**

The following acts, omissions, places, conditions, and things are specifically declared public nuisances; but such enumeration shall not be construed to exclude other nuisances.

- 1) PUBLIC NUISANCES AFFECTING HEALTH, WELFARE, AND ENJOYMENT OF PROPERTY.
  - 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 INSECTS OR VERMIN.** 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 can breed, except for outdoor composting in an area less than ten sq/ft and storage of manure or fertilizer in connection with farm operations.
- d) **STAGNANT WATER.** All containers or manmade bodies of stagnant water in which mosquitoes, flies, or other insects can multiply, except Village approved retention or detention basins.
- e) **PRIVY VAULTS AND GARBAGE CANS.** No commercial or industrial property or business may have privy vaults and/or garbage cans that are not fly-tight.
- f) **NOXIOUS AND NUISANCE WEEDS.** Any place in the village where noxious weeds are over one foot high, are located on private or public land, and the noxious weeds are not timely cut or removed within fourteen (14) days after posting or publication of a notice to destroy noxious weeds under s. 66.0407 Wis. Stats. or within seven (7) days after receipt or written notice to remove from the Village Board. The Village may cause all such noxious weeds to be destroyed and the costs thereof charged to the property pursuant to Sec. 66.0703 or 66.0627, Wis. Stats., or the person(s) or other legal entity charged with control of said property or the owner, but not both.
- g) **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.
- h) **NOXIOUS ODORS, ETC.** Any use of property, substances or things within the Village emitting or causing any foul, offensive, noxious or disagreeable odors, gases, effluvia or stench that annoy, discomfort, injure or inconvenience the health or are extremely repulsive to the physical senses of ordinary person(s) or other legal entities which entities annoy, discomfort, injure or inconvenience the health of any person(s) or other legal entities within the Village.
- i) **STREET POLLUTION.** Any use of property that causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- j) **AIR POLLUTION.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village in such quantities as to endanger the health of person(s) or other legal entities of ordinary sensibilities or threaten or cause substantial damage to property in the Village, except as otherwise authorized by the municipal code, specifically sec. 9.11 herein.
- k) **ANIMALS RUNNING AT LARGE.** No person owning or harboring any animal shall permit such animal to run at large within the village except within the immediate presence and 'effective control' of such person. The owner's or harborer's failure to adequately

restrain an animal in a building, enclosure, or on a leash, lead or halter shall be considered *de facto* proof of permission to run at large. Further, an animal that damages or injures property or person(s) or other legal entities is not within effective control of a person responsible for it.

- i. Impounding. Any animal running at large, with or without license, may be immediately taken into custody by any police or peace officer, and impounded in a suitable place to be arranged for or provided by the Village, not exceeding ten (10) days. The Village may impose a reasonable cost for maintenance of such animal(s).
  - ii. Disposition. The release of any animal so impounded shall be conditioned upon payment of the charge of maintenance at such place of impounding, subject to the conditions of Ch. 173 Wis. Stats.
- l) **BARKING DOGS. HOWLING.** Whenever it shall be determined by the Police Chief or his/her designee, upon the duly verified complaint of a resident of the municipality filed with the Police Department or Village Board, that any dog habitually howls, yelps or disturbs the peace and quiet of the municipality or of the neighborhood in which the dog is located, the owner of such dog shall remove it from the municipality within twenty-four (24) hours after service the by the Police Chief, or his/her designee, of written notice upon him to that effect, which notice may be personally served upon such owner or may be forwarded to him at his residence by first class mail; and failure of such owner to remove such dog each day subsequent to the service of such notice shall be deemed a separate violation. The owner of a dog may request a hearing before the Village Board within 48 hours of receipt of the notice. The request for hearing shall be in writing addressed to the municipal clerk. If a request for hearing is timely filed, the owner of the dog shall not have to remove the offending dog from the municipality except by order of the Village Board after a hearing and opportunity to be heard.
- m) **OTHER ANIMALS.** The keeping of any animal that causes the continuous annoyance and discomfort of surrounding neighbor(s) so that their rest is broken, sleep interrupted, or the reasonable use and enjoyment of their property disturbed, is a nuisance. Such animal may be taken into custody as provided in Sub.(k)(i).
- n) **DANGEROUS ANIMALS.** Whenever it shall be determined by the Chief of Police of the municipality, or his/her designee, upon the duly verified complaint of a resident of the municipality field with the Village, that any dog is habitually fierce, vicious, dangerous, or it's in the habit of attacking other animals, the owner of such dog, within twenty-four (24) hours after service by the municipality of written notice upon him to that effect, personally served upon such owner or forwarded to him at his residence address in the regular course of the United States mail, shall remove such dog from the municipality or enclose it within an enclosure or walls sufficient to keep the dog from endangering any person other animal and sufficient to prevent escape by said dog from the structure. The enclosure shall be locked in such a fashion to prevent children from gaining access to said enclosure. The Chief of Police, or his/her designee, shall inspect the enclosure and determine whether the enclosures meets the requirements of this ordinance. Whenever such dog shall be so enclosed, a sign shall be displayed at every point of entrance to such enclosure giving warning of the presence of such dog, and such signs shall not be removed or defaced at any time while such dog is so confined within the enclosure. Failure of the owner to remove or enclose such

dog, or to construct an enclosure meeting the requirements of this ordinance, each day subsequent to the service of any notices to either enclose the animal or created an enclosure within the meaning of this ordinance shall be deemed a separate violation of the provisions of this section. The hearing provisions of Sub (5) shall apply except that such dog may be impounded if the dog poses a threat to the health or safety of humans or other animals.

o) DUTY OF OWNER IN CASES OF DOG BITE.

- i. Every owner or person keeping or harboring a dog who knows that such dog has bitten any person shall immediately report such fact to the Chief of Police or any officer and shall keep such dog confined for not less than fourteen (14) days or for such period of time as the Police Chief or officer may direct.
- ii. The owner or keeper of any such dog shall surrender the dog to the Chief of Police or officer upon demand for examination and shall pay for all expenses incurred.

p) GENERAL POLLUTION. Waste which is prepared or stored on any premises in a manner which creates or may create a public health hazard, safety hazard or blighting condition.

q) STORAGE OF JUNK OR UNSIGHTLY DEBRIS.

- i. No person or other legal entity shall store junk upon real property that is subject to the view of the public. The Village does not recognize the use of temporary covers as an acceptable barrier from public view. All violations of this section shall result in a thirty (30) day notice prior to the issuance of a citation. The notice shall identify what items are to be removed.
- ii. Junk defined. In this section, 'junk' shall mean any old or scrap metal, metal alloy, synthetic or organic material, waste, household appliances, furnaces, water heaters, machinery, bricks, cement or cement blocks, and other miscellaneous building materials that, under the totality of the circumstances, is otherwise unsightly and appears to be rubbish. Firewood should be neatly stacked. In addition, junk shall also mean any dismantled or wrecked motor or other vehicles, parts thereof, or any other motor or other vehicle that, under the totality of the circumstances, appears mechanically inoperable, or cannot be used legally upon the public highways or for the purpose upon which they were constructed. In considering the totality of the circumstances herein, factors may include, but not be limited to, whether the vehicle has affixed to it a current license plate and registration, whether it is actually operable, the amount of time it has remained in one position, whether there is air in the tires, whether it is being used for storage, or whether it otherwise appears to be junk.

r) LAWN MAINTENANCE. All lawns consisting of grass and/or weeds shall be kept cut to a height not to exceed twelve (12) inches, except for lands zoned agricultural.

- i. Public policy. Overgrown lawns are an intermittent and recurring problem which shelter pests and vermin, aggravate health problems for people who have certain allergies or health conditions, detract from property values, and make neighborhoods less attractive to residents and prospective residents.

- ii. Municipal enforcement. Due to the unique characteristics of this type of public nuisance, in addition to any other enforcement methods herein or otherwise allowed by law, the Village may also enter property and abate lawns that violate this ordinance by mowing them, without first seeking a court order, subject to the notice provision herein. Work performed shall be by Village personal or contracted services at the discretion of the Village.
  - iii. Notice. The Village shall first notify the property owner and/or any person or legal entity causing the condition, by posting a notice at or near the property entrance, giving them ten (10) days to correct the condition, and stating that the Village will do so thereafter if they do not.
  - iv. Collection of abatement costs. Cost of the abated will be \$100.00 for administrative costs per abatement plus actual cost of abatement. Unless the property owner and/or person or entity causing the condition pays the cost of abatement within twenty (20) days of notice of said cost, the Village may collect the cost of abatement as allowed by law, including as a special charge under Sec. 66.0627, Stats., or under Ch. 10.06, herein.
- 2) NUISANCES AFFECTING DECENCY. For the purposes of this Section: 'Nuisance activity' means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or person(s) or other legal entities associated with the premises:
- a) DISORDERLY HOUSES. All disorderly houses, gambling houses, building or structures kept or restored to or for the purpose of gambling, or any drug or criminal gang house as defined in Sec.823.113(1m)(b), Wis. Stats., and all buildings or structures where the sale, manufacture, or delivery of drug paraphernalia as defined in Sec. 961.571(1)(a), Wis. Stats., occurs.
  - b) GAMBLING MACHINES. The keeping of gambling devices or slot machines.
  - c) UNLICENSED SALE OF LIQUOR OR 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 by the ordinances of the Village of Bloomfield.
  - d) REPEATED VIOLATION OF VILLAGE ORDINANCES. Any place or premises within the Village where Village ordinances or State laws relating to public health, safety, peace, or welfare are repeatedly violated.
  - e) ILLEGAL DRINKING. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State law or a Village ordinance.
  - f) ESTABLISHMENT OF ORDINANCE RELATING TO OBSCENITY, ETC. Any place or premises within the Village where the laws relating to obscenity and related offenses set forth in Secs. 944.20 through 944.36 Wis. Stats., occur.

3) NUISANCES AFFECTING PEACE AND SAFETY.

a) SIGNS, BILLBOARDS AND RELATED MATTERS.

- i. All signs, billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public and not maintained in a proper state of repair, not constructed in a structurally sound manner or permitted to become structurally unsound so as to depreciate property values or so as to endanger the health, safety, or welfare of the public.
- ii. All signs, billboards, awnings, and other similar structures over or in view of the public highways, streets, sidewalks, public grounds or places frequented by the public and used for more than thirty (30) days and not constructed of a material suitable for outdoor use which becomes unsightly and/or in a state of disrepair. This does not apply to political campaign signs; however, such signs must be removed seventy-two (72) hours after the election.

b) BUILDING CODE VIOLATIONS. All buildings erected, repaired, or altered in violation of the Village's ordinances relating to materials and manner of construction of building and structures within the Village.

c) OBSTRUCTION OF INTERSECTIONS. All obstructions two and one half (2½) feet above grade which prevent person(s) or other legal entities driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk is a nuisance.

d) DANGEROUS TREES AND PLANTS. All trees and plants that are a danger to public safety or are the cause of substantial annoyance to the public. Any tree whose limbs project over and are less than fourteen (14) feet above any public sidewalk, or less than eighteen (18) feet above any street or other public place shall be deemed a dangerous tree.

e) DANGEROUS OR DILAPIDATED BUILDINGS. Any place in the village where a building or structure, the contents of a building or structure, or any associated electrical, heat, water, or sewer system located on public or private lands is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation, and the conditions that are dangerous, unsafe, unsanitary, or otherwise render the building unfit for human habitation are not timely removed or discontinued within thirty (30) days of receipt of written notice to remove from the Village Board.

f) LOW-HANGING WIRES AND CABLES. All wires and cables over streets, or private or public grounds that are strung less than eighteen (18) feet above the surface thereof or are otherwise dangerous.

g) OBSTRUCTIONS OF STREETS; EXCAVATIONS. All obstructions of streets or crosswalks and all excavations or under the same, except as permitted by the ordinances of the Village but including those 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 which do not conform to the permit.

h) UNLAWFUL ASSEMBLIES.

- i. Any unauthorized or unlawful use of property on or abutting onto a public street or other public property which causes large crowds of people to gather, obstructing traffic and free use of the streets.
- ii. Any unauthorized or unlawful use of property that is intended to disrupt the business of government.

i) SUFFOCATION HAZARDS. Any abandoned, unattended, or discarded icebox, refrigerator, walk-in cooler, or other container of any kind, which has an air-tight door or lid, snap lock, or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from such container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened shut.

j) EXCESSIVE NOISE. The making, continuation, or causing to be made or continued any noise that either injures, endangers the comfort, repose, health, or safety of another, or substantially annoys another between the hours of 10:00 p.m. and 7:00 a.m. This provision shall not apply to noises necessary for the protection or preservation of property, or the health or safety of a person or other legal entity, or to emergency short-term operations that are necessary to protect the public health, safety, or welfare, including emergency utility and public works operations.

k) RESERVED.

l) OPEN CISTERNS, WELLS, BASEMENTS OR OTHER EXCAVATIONS. No person or other legal entity shall have or permit on any premises owned or occupied by them any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced, in such manner as to prevent injury to any person or other legal entity and any cover shall be of a design, size and weight that small children cannot remove the same.

**10.05 ABATEMENT OF PUBLIC NUISANCE.**

1) ENFORCEMENT. The Chief of Police, Fire Chief, Building Inspector, or their designee shall enforce those provisions of this chapter that come within the jurisdiction of their offices; and they shall conduct 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 official has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied that a nuisance does in fact exist.

- a) Whenever the Police Chief, Fire Chief, Building Inspector, or their designee determines that a violation of this chapter has occurred at a premise, the officer shall notify the premise owner and person or other legal entity(s) causing such a condition, in writing, that the nuisance condition exists. This notice shall be deemed properly served when service has been accomplished pursuant to Chapter 801, Wis. Stats., or by certified mail, return receipt requested, signed by the recipient.



- b) The notice shall contain the legal description or street address of the premises, a description of the nuisance condition, and a statement indicating that the costs of future enforcement may be assessed as a special charge against the premises and/or by citation through the Municipal Court.
- 2) **MULTIPLE VIOLATIONS.** Each incident of nuisance activity shall be deemed a separate violation. In addition, each day a nuisance exists shall also be deemed a separate violation.
- 3) **SUMMARY ABATEMENT.** If the inspecting officer determines that a public nuisance exists within the Village and that there is a great and immediate danger to the public health, safety, peace, or decency, the officer may direct the proper officials to cause the same to be abated and charge the cost thereof to the owner, occupant or a person or other legal entity(s) causing, committing or maintaining the nuisance.
- 4) **OTHER METHODS NOT EXCLUDED.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officers in accordance with the laws of the State or the ordinances of the Village of Bloomfield. Where the provisions of this Chapter conflict with another section of the Village of Bloomfield Municipal Code, the more restrictive provision shall apply.
- 5) **COURT ORDER.** Except where necessary under (3), an officer shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property. If such premises are not occupied or, if such permission is denied, the Village shall apply to the Circuit Court for an order assisting the abatement of the public nuisance.

#### **10.06 COST OF ABATEMENT AND ENFORCEMENT.**

All costs of abatement and enforcement or other legal entity(s) erecting, continuing, causing, maintaining, or permitting the public nuisance. If notice to abate the nuisance has been served upon the owner of the premises where the nuisance exists, such cost may be assessed against the real estate as a special charge. Such costs may include actual attorney fees. Citations issued shall be prosecuted before the Municipal Court.

#### **10.07 DEVIATIONS.**

The Village Board may authorize deviations from the requirements herein under special circumstances based on its judgment.

#### **10.08 PENALTY.**

This chapter shall be enforced pursuant to Section 25.04 of the Village of Bloomfield Municipal Code, or other penalty as specified by statute or herein.

#### **10.09 SEVERABILITY.**

If any provision, clause, sentence, paragraph, section, or part of this Chapter, or application thereof

to any person or other legal entity, firm, corporation, or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair, or invalidate, the remainder of this Chapter and the application of such provision to other person(s) or other legal entities, firms, corporations, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which such judgment shall have been rendered and to the person or other legal entity, firm, corporation, or circumstance involved. It is hereby declared the legislative intent of the Village Board that this Chapter would have been adopted had such invalid provision or provisions not been included.