

## 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; or
2. In any way render the public insecure in life or in the use of property; or
3. Greatly offend the public morals or decency; or
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 are hereby declared to be public health nuisances, prejudicial to the public health, but shall not be construed to exclude other health nuisances coming within the definition of subsection (a) of this section:

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered to the public for consumption.
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 or which create a fire hazard or which constitutes an attractive nuisance for children;
4. All stagnant water in which mosquitoes, flies or other insects can multiply;
5. Garbage cans which are offensive and which are not fly-tight, vermin and rodent proof.
6. 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;
7. Unsheltered storage of old, unused, stripped, junked, unlicensed, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, or equipment and personal property of any kind which is no longer safely

usable for the purposes for which it was manufactured, for a period of 30 days or more (except in licensed junk yards) within the corporate limits of the village.

8. Any barn, stable or shed used for keeping livestock or poultry.
9. Any noxious weeds on private property, as defined by Chapter 18 of the Illinois Revised Statutes;
10. All abandoned wells and well pits which are no longer used for the purpose intended and which are not properly filled to prevent ground water pollution or other hazard to the public health.
11. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances; or any act in violation of the Environmental Protection Act;
12. Any obstruction in or across any watercourse, drainage ditch or ravine;
13. Any dense smoke, noxious fumes, gas, soot, or cinders or other air pollutant which when emitted from equipment, building, or other structure in quantities sufficient to be toxic, harmful or injurious to the health of an employee, or occupant of any premises or to any person.
14. 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;

(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 kept or resorted to for the purpose of prostitution or promiscuous sexual intercourse. (*Ord. 2012-15; 8/16/12*)
2. All gambling devices and slot machines except as permitted pursuant to the Illinois Video Gaming Act (230 ILCS 40/1 *et seq.*) and applicable regulations. (*Ord. 2012-15; 8/16/12*)
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. Obscene establishments or activities defined as follows: Any establishment, premises, building or place used to promote, or any activity that promotes any obscene exhibition

or obscene material. An exhibition or material is obscene if the average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest, which, taken as a whole, lacks serious literary, artistic, political or scientific value, and which depicts or describes, in a patently offensive way specified sexual activities or specified anatomical areas, but excepting therefrom any such obscene material that is not promoted for gain and was made or presented to personal associates other than persons under age 18, or any such material that is used in an institution or by an individual having scientific or other special and lawful justification for possession and use of such material ("gain" hereby meaning monetary or in kind consideration, whether in the form of payment of a price, a fee, dues or any other financial transaction.)

5. 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 buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use;
3. Any structure, material or condition which constitutes a fire hazard or will impair the extinguishing of any fire;
4. All electric and barbed wire fences, unless authorized by zoning district.
5. Residential swimming pools, spas and hot tubs which do not meet current McHenry County requirements for proper barrier;
6. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;
7. 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;
8. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street or other private or public property without permission of the owner thereof;
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. Any sign, marquee or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalk less than 8 feet above the sidewalk surface;
11. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;
12. 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;
13. All dead or diseased trees or parts thereof located on private property which overhangs any street, sidewalk or other property owned by the village;
14. 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;
15. 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;
16. 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;
17. All use or display of fireworks except as provided by the laws of the State of Illinois and ordinances of the village;
18. All outdoor burning except as provided by the ordinances of the village;
19. Deleted (Ord. 1999-3)
20. Lighting, whether decorative or for security, which spills over onto or into any adjoining property or onto any public thoroughfare so as to be hazardous or annoying to others, or which glares or shines into the eyes of motorists or pedestrians.
21. Any dog running at large and not under direct control of its owner or responsible person.
22. Any nuisance so defined by the Illinois Revised Statutes, or under the common law.

12.03 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, metal ware 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) 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.

(d) No person shall bury any garbage within the village.

(e) No person shall burn out of doors any garbage, paper, plastic or refuse.

12.04 JUNK AND ABANDONED VEHICLES. (a) Definition. The following definitions shall apply in this section:

-Vehicle: A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, and wagon.

-Street or highway: The entire width between the boundary lines of every way publicly maintained when any part thereof is open to use of the public for purposes of vehicular travel.

-Property: Any real property within the village which is not a street or highway.

-Junk: Any property, which is not currently used or useable.

(b) Abandonment of Vehicles. No person shall abandon any vehicle within the village, and no person shall leave any vehicle at any place within the village for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(c) Non-operating Vehicle or Junk on Street or Lots. No person shall leave any partially dismantled, nonoperating, wrecked, or junked vehicle, or other junk as defined herein on any street or highway or on any lots within this village without written authorization of proper authorities of the village.

(d) Disposition of Wrecked or Discarded Vehicles. No person in charge or control of any property within the village whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked, or discarded vehicle or junk as defined herein to remain on such property longer than 7 days; and no person shall leave any such vehicle or junk on any property within the village for longer time than 7 days, except that this shall not apply with regard to a vehicle or junk in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the village, or when written permission is given by proper authorities of the village to have junk on lots or premises.

(e) Impounding. The village may remove or have removed any vehicle or junk left at any place within the village which reasonable appears to be in violation of this section or lost, stolen, or unclaimed. Such vehicle or junk shall be impounded until lawfully claimed or disposed of in accordance with Chapter 95 Illinois Revised Statutes, Sections 42-49.

12.05 WEEDS. (a) Defined. For the purposes of this section, "noxious weed" is defined to include but not limited to Giant Ragweed, Common Ragweed, Musk Thistle, Canada Thistle, Perennial Sow Thistle and Johnson Grass.

(b) Prohibited Weeds. It shall be unlawful for any person to permit any type of noxious weed to grow on any real estate owned, occupied, controlled, managed or possessed by such person in the village.

(c) Height of Weeds. It shall be unlawful for any person to permit any other weeds, any grasses or plants except trees, bushes, flowers or other ornamental plants to grow to a height exceeding 8 inches on any real estate owned, controlled, occupied, managed or possessed by such person in the village.

(d) Violations. Any party that violates any provisions of this section shall be subject to a fine pursuant to Appendix A of this code for each day violated and/or having the property mowed by the Village and be liable for the fee established in Appendix B of this code.

12.06 SEWAGE DISPOSAL. All sewage wastes shall be disposed of in a sanitary manner so as not to endanger the health of any person or be a nuisance. The disposal of sewage wastes into a septic tank and seepage bed, which is properly constructed, and adequate to handle the sewage wastes shall satisfy the requirements of this chapter.

Any violation of this section shall be deemed a nuisance and may be abated as such in the manner prescribed by law or by this code.

12.07 DANGEROUS BUILDINGS. (a) Definitions. The term "dangerous building" as used in this section means:

1. Any building, shed, fence or other man-made structure which is dangerous to the public health because of its conditions, and which may cause or aid in the spread of disease or injury to the health of occupants of it or neighboring structures;
2. Any building, shed, fence or other man-made structure which because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;
3. Any building, shed, fence or other man-made structure which because of its condition or because of lack of doors or windows is available to or frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

(b) Nuisance. Any dangerous building in the village is declared to be a nuisance.

(c) Prohibited. It shall be unlawful to maintain or permit the existence of any dangerous building in the village and it shall be unlawful for the owner, occupant, or person in custody of any dangerous building to permit the same to remain in a dangerous condition, or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition.

(d) Abatement. Whenever a village officer shall be of the opinion that any building or structure in the village is a dangerous building, he shall file a written statement to this effect to the Village Clerk. The clerk shall thereupon cause notice to be served. Such notice shall state that the building has been declared to be in a dangerous condition and that such dangerous condition must be removed or remedied by repairs or altering the building or by demolishing it; and that the condition must be remedied at once.

12.08 UNFIT DWELLINGS. (a) Designation. The designation of dwellings or dwelling units as unfit for human habitation and the procedure for the condemnation, placarding and demolition of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

Any dwelling or dwelling unit which shall be found by the Board of Trustees to have any of the following defects shall be condemned as unfit for human habitation and shall be so designated and placarded by the village:

1. One which is so damaged, decayed, dilapidated, unsanitary, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public.
2. One which lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or of the public or where such facilities or protection are not in working condition.
3. One which because of its general condition or location is unsanitary, unsafe or otherwise hazardous to the health or safety of the occupants or of the public.

(b) Vacating. Any dwelling or dwelling unit condemned as unfit for human habitation and so designated and placarded by the village shall be vacated within a reasonable time, not to exceed 60 days, as ordered by the Village President.

(c) Re-Use. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and the placard is removed by, the Village President. The President shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

(d) Removing Placard. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such except as provided in subsection (c).

(e) Hearings. Any person affected by any notice or order relating to the condemnation and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be

granted a hearing before the Board of Trustees on the matter within 10 days after the date of such order and placarding.

(f) Court Order. Where a dwelling or dwelling unit is condemned and placarded as unfit for human habitation and is not vacated within the time specified in such vacation order, the Village President shall seek a court order in a court of competent jurisdiction for the vacation of such dwelling or dwelling unit.

(g) Demolition. A dwelling which is subject to condemnation and placarding as unfit for human habitation may be ordered demolished by the Village President if it is determined by the Inspector that such defects upon which the condemnation order is based cannot be economically remedied. Demolition according to requirements listed below may be required of the owner within a reasonable period of time, said period of time to be not less than 30 days after notice is served on said owner. Such demolition shall have the effect of fulfilling the requirements of removing defects if the dwelling structure is razed to ground level and any subsurface area is filled with solid materials to ground level.

1. In accordance with the provisions of the Illinois Revised statutes, the corporate authorities shall apply to the Circuit Court of McHenry County for an order authorizing the demolition of the dwelling or building as unfit for human habitation, after at least 30 day written notice has been served on the owner and the owner has failed to comply with said notice. Service of all notices shall be made on the owner or owners if possible, but where after diligent search the identity or whereabouts of the owner or owners of such buildings shall not be ascertainable, notice mailed to the person or persons in whose name such real estate was last assessed shall constitute notice under this section.
2. After order of demolition is entered in the Circuit Court of said McHenry County, the corporate authorities shall then proceed to demolish said building or dwelling as follows:
  - A. At least two bids shall be secured upon the cost of demolition of the said building or dwelling and a contract shall be awarded to the lowest bidder.
  - B. The payment of said contract shall be from the general fund of the village.
  - C. The cost of demolition of the building shall be recoverable from the owner or owners of such real estate, and shall be a lien thereon, which lien shall be subordinate to all prior liens and encumbrances provided that within 60 days after said cost and expense is incurred, the village or person performing the service by authority of the village, shall file notice of the lien in the office of the Recorder of Deeds of McHenry County, said notice to consist of a sworn statement setting out: (a) a description of the real estate sufficient for identification thereof; (2) the amount of money, cost or expense payable for the demolition; (3) date or dates when said cost or expense was incurred by the village.

- D. Upon the payment of the cost or expense by the owner or owners interested in said 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. The line may be enforced by proceedings to foreclose as in the case of mortgages or mechanic's liens. Suit to foreclose the lien shall be made within three years after date of filing of notice of the lien.

12.09 DEAD OR DISEASED TREES. (a) Any and all trees or parts thereof located in and on the streets in the Village of Richmond, or in or on property owned by the Village, shall be subject to the terms of this section.

(b) Any such trees or parts thereof which are diseased or dead shall be removed at the direction of the Superintendent of Public works.

(c) Any tree or part thereof located on private property which overhangs any street in the village, including any sidewalk, treebank or other property located in said street in the village, or which overhangs any property owned by the village, which is dead or diseased shall be removed by the owner of the property upon which said tree stands upon the serving upon such owner of a notice of such removal.

12.10 FIRES (repealed 2008-20-see 14.11, Outdoor Fires)

12.11 NOISE. No person shall cause or allow to be caused excessive noise such that said noise annoys and disturbs any reasonable person and causes a breach of the peace. With respect to excessive noise, which occurs as a result of construction work or activity, said noise during the following periods is strictly prohibited:

- (a) between the hours of 7:00 PM and 7:00 AM of the following day on any day; and
- (b) Sundays; and
- (c) New Year's Day, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving Day and Christmas Day.
- (d) Exception to the above prohibition on construction activity may be granted in writing, upon good cause shown, by the Village President, Public Works Superintendent or Chief of Police.

12.12 DOGS AND OTHER ANIMALS. (a) No person shall cause or permit any dog owned or kept by him to be at large within the village. All dogs, while on any street, public way or private premises other than the premises of the owner, agent or keeper, shall be led by a chain or leash not exceeding 6 feet in length in such a manner as to prevent such dog from biting or otherwise injuring any person or animal. Nothing in this section shall be interpreted to require the leashing of any dog while on the private premises of the owner, agent of the owner or keeper.

(b) With the exception of dogs leading blind persons, no dog shall be permitted, even though on leash or carried, to enter any of the following places or areas:

1. Any restaurant, food establishment, office, store, market or confectionery shop during the time such establishment is open for public business;
2. A public building or public grounds;

(c) Any dog found at large shall be taken up by the Police Department and impounded in the McHenry County animal shelter and shall be held according to the rules of the shelter.

12.13 ABATEMENT OF PUBLIC NUISANCES. (a) Notice to Abate. Upon establishing the presence of any of the nuisances described in this Chapter, the Village shall cause to be served or sent a notice ordering the abatement of the nuisance within 10 days from the date of sending or serving the notice, as provided for in this Section.

(b) Method of Service of Notice. The notice may be served by any one of the following methods:

1. Personal service on the owner, occupant, manager or party in possession of the real estate on which the nuisance exists;
2. Mailing of a copy of said notice by registered or certified mail to the last titleholder of record of the subject property, as noted in the Treasurer's office of McHenry County, using the address of the last taxpayer of record on said subject property, in accordance with the records of the Treasurer of McHenry County;
3. Faxing a copy to the owner or owner's legal representatives. Any notice, mailed or Faxed as provided herein, shall be deemed to have been given or made on the date of mailing or faxing. Personal service of notice shall be deemed to have been given or made on the date of service.
4. If the subject property has a mailing address other than the address of the last taxpayer of record, and service is by mail, a copy of said notice shall be mailed by regular mail to said address.

(c) Persons Authorized to Personally Serve Notice. The notice may be served by any employee of the village authorized or directed by the Village Board and/or Village President to serve said notice. Said employees and/or officers shall include but not be limited to Village building inspectors, public works officers and employees, and police officers. Personal service may also be obtained by such other parties as may be authorized to serve civil process in the State of Illinois.

(d) Failure to Abate after Notice. If the nuisance is not abated within 10 days from the mailing or service of the notice as provided for in this Section, the nuisance shall be deemed a violation of this ordinance.

(e) Abatement of the Nuisance by the Village. If the nuisance is not abated within said 10 days, the Village may proceed to abate such nuisance and shall keep an account of the cost and expenses of such abatement.

(f) Payment of Fees, Costs and Expenses to the Village. All costs and expenses incurred by the Village including an administrative fee of \$20 shall be billed to the owners, occupants, managers or parties in possession of the property. If the fees and costs are not paid at the Village Clerk's office within 10 days of the billing of such, the Village attorney is authorized to file a suit in a court of competent jurisdiction for all costs and expenses incurred by the Village, including reasonable attorney's fees and interest on all sums due and owing the Village at the rate of 10% per annum.

(g) Lien and Foreclosure Remedies. In addition to all other remedies that the Village may have for collection of sums due and owing the Village, the Village may place a lien upon the subject property for all costs and expenses incurred by the village in connection with the abating of the nuisance, including interest and legal fees. The lien upon the real estate affected shall be superior to all other liens and encumbrances to the extent allowed by law. Said lien may be enforced by a foreclosure procedure using the procedures now in effect in the State of Illinois for foreclosures of mechanics liens, Illinois Revised Statutes, Chapter 82.

(h) Release of Lien. Upon payment to the Village of all costs and expenses incurred by the Village including recording charges, expenses for any foreclosure suits instituted, attorney fees, and interest, the Village shall release said lien.

(i) Violations. Any party that violates any provisions of this Chapter shall upon conviction be subject to a fine pursuant to Appendix A of this Code for each offense. (*Ord. 2012-07*)

(j) Equitable Relief. The Village or any person whose property may be affected by a violation of this Chapter may institute an appropriate proceeding in equity to abate said nuisance.

(k) Remedies. The remedies and penalty provisions provided for herein shall be deemed non-exclusive, and the election by the Village to proceed with collection of funds due and owing the Village, recording and foreclosing of a lien, or a suit in equity to abate the nuisance shall not bar the Village from instituting actions for violation of this Chapter as provided for in paragraph (i) or such other remedies as may by law be provided.

(1992-13)