

Chapter 278

NUISANCES

[HISTORY: Adopted by the Village Board of the Village of Spring Green at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 166.

Intoxicating liquor and fermented malt beverages — See Ch. 235.

Peace and good order — See Ch. 292.

Property maintenance — See Ch. 300.

§ 278-1. Public nuisances prohibited.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Spring Green.

§ 278-2. Determination of public nuisance.

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.
- 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.

§ 278-3. Public nuisances affecting 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 definition of § 278-2:

- A. Adulterated food. All decayed, harmfully 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 which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- C. Breeding places for vermin. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever 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. Garbage cans. Garbage cans which are not flytight.
- F. Noxious weeds. All noxious weeds and other rank growth of vegetation.
- 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. Any use of property, substances or things within the Village causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, 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.
- I. Street pollution. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- J. Animals at large. All animals running at large.
- K. Accumulations of refuse. Accumulations of old cans, lumber, elm firewood and other refuse.
- L. Air pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits 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.

§ 278-4. 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 § 278-2:

- 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, promiscuous sexual intercourse or gambling.
- B. Gambling devices. 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 in the ordinances of the Village.
- 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 of Wisconsin or

ordinances of the Village.

§ 278-5. 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 definition of § 278-2:

- A. Signs, billboards and awnings. 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 highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.
- D. Obstruction 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. Tree limbs. All limbs of trees which project over a public sidewalk less than 10 feet above the surface thereof and all limbs which project over a public street less than 10 feet above the surface thereof.
- F. Dangerous trees. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- G. Fireworks. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- H. Dilapidated buildings. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- I. Wires over streets. All wires over streets, alleys or public grounds which are strung less than 18 feet above the surface thereof.
- J. 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, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- K. Obstructions of streets; excavations. 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 which do not conform to the permit.

- L. Open excavations. All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- M. Abandoned refrigerators. 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.
- N. Flammable liquids. Repeated or continuous violations of the ordinances of the Village or laws of the state relating to the storage of flammable liquids.
- O. Unremoved snow. All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

§ 278-6. Chronic nuisance premises.

- A. Findings. The Village Board finds that any premises that has generated three or more calls for police service for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the Village. The Village Board therefore directs the Chief of Police, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.
- B. Definition. 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 persons associated with a premises. "Person associated with" means any person who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.
 - (1) An act of harassment as defined in § 947.013, Wis. Stats.
 - (2) Disorderly conduct as defined in § 947.01, Wis. Stats.
 - (3) Battery, substantial battery or aggravated battery as defined in § 940.19, Wis. Stats.
 - (4) Indecent exposure as defined in § 944.20(1)(b), Wis. Stats.
 - (5) Keeping a place of prostitution as in § 944.34, Wis. Stats, or leasing a building for the purposes of prostitution.
 - (6) Littering of premises.
 - (7) Theft as defined in § 943.20, Wis. Stats.
 - (8) Arson as defined in § 943.02, Wis. Stats.
 - (9) Possession, manufacture or delivery of a controlled substance or related offenses as defined in Ch. 961, Wis. Stats.
 - (10) Gambling as defined in § 945.02, Wis. Stats.
 - (11) Keeping a prohibited dangerous animal.

- (12) Trespass to land as defined in § 943.13, Wis. Stats., or criminal trespass to dwelling as defined in § 943.14, Wis. Stats.
- (13) Any act of aiding and abetting any of the activities, behaviors or conduct enumerated in Subsection B(1) to (12).
- (14) Any conspiracy to commit, as defined in § 939.31, Wis. Stats., or attempt to commit, as defined in § 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in Subsection B(1) to (12).
- (15) Discharge of a firearm.
- (16) The production or creation of excessive noise.
- (17) Loitering.
- (18) Public drinking.
- (19) Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace.
- (20) Misuse of emergency telephone numbers.

C. Procedure.

- (1) Whenever the Chief of Police determines that three or more nuisance activities have occurred at a premises on separate days during a thirty-day period or that repeated nuisances of the types defined in this chapter have occurred at a premises, the Chief may notify the premises owner in writing that the premises is in danger of becoming a chronic nuisance. This notice shall be deemed to be properly delivered if sent either by first-class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first-class mail to the last known address of the owner as identified by the records of the Village Assessor. This notice shall contain:
 - (a) The street address or legal description sufficient for identification of the premises.
 - (b) A description of the nuisance activities 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.
 - (c) A statement that the premises owner shall, within 10 days, respond to the Chief of Police either with an appeal or to propose a written course of action to abate the nuisance activities which is acceptable to the Chief.
- (2) Whenever the Chief of Police determines that an additional nuisance activity has

occurred at a premises for which notice has been issued pursuant to Subsection C(1) and either this nuisance activity has occurred not less than 13 days after notice has been issued or a course of action submitted pursuant to Subsection C(1)(c) has not been completed, the Chief of Police may calculate the cost of enforcement for this and any subsequent nuisance activities and may refer such cost to the Village Board. The Chief of Police shall notify the premises owner of the decision to refer the cost of enforcement. Delivery of this notice, along with a copy of the Chief's referral letter to the Village Board, shall be made as set forth in Subsection C(1). The notice shall contain:

- (a) The street address or legal description sufficient for identification of the premises.
 - (b) A statement that the Chief of Police has referred the cost of enforcement to the Village Board with a concise description of the nuisance activities and the relevant sections of the Code.
 - (c) A notice of the premises owner's right to appeal pursuant to Subsection E.
- (3) Violation. Each subsequent incident of nuisance activity shall be deemed a separate violation.
- D. Cost recovery. Upon receipt of a notice from the Chief of Police issued pursuant to Subsection C(2), the Village Board may charge any premises owner found to be in violation of this section the costs of enforcement, including administrative cost, in full or in part. All costs so charged are a lien upon such premises and may be assessed and collected as a special charge. The Village Board shall establish a reasonable charge for the costs of administration and enforcement of this section.
- E. Appeal. Appeal of the determination of the Chief of Police may be submitted pursuant to Ch. 68, Wis. Stats.

§ 278-7. Abatement of public nuisances.

- A. Enforcement. The Police Department, the Chief of the Fire Department, the Director of Public Works and the Building Inspector shall enforce those provisions of this chapter that come within the jurisdiction of their offices, 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 has 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, upon the recommendation of the appropriate department head, may direct the proper officer to cause the same to be abated and 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 file a written report of his findings with the Village Clerk-Treasurer, who, upon direction of the Village Board, shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court in accordance with the provisions of Ch. 823, Wis. Stats.
- 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 of Wisconsin.

§ 278-8. Recovery of abatement costs.

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. Such cost shall be assessed against the real estate as a special charge.

§ 278-9. Violations and penalties.

Violation of this chapter shall be subject to a forfeiture of not less than \$20 nor more than \$300 together with costs and assessments as prescribed by law.