

Village of Almena, WI
Tuesday, July 30, 2024

Chapter 185. Nuisances

[HISTORY: Adopted by the Village Board of the Village of Almena as § 10 of the former Village Code. Amendments noted where applicable.]

§ 185-1. Public nuisances prohibited.

No person(s), corporation, or other entity shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Almena.

§ 185-2. "Public nuisance" defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such a length of time as to:

- A. Substantially annoy, injure, or endanger the health, safety, comfort and repose of the public;
- B. In any way render the public insecure in life or the use of property;
- C. Greatly offend the public morals or decency;
- D. 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;
- E. Tend to interfere with, obstruct, or render dangerous for passage, any street, alley, highway, or other public way by causing, or tending to cause, a distraction to passing motorists by causing them, or tending to cause them, to be distracted by causing, or tending to cause, them to look at adjoining property, or items placed or stored thereon, as by visible storage thereon of items or goods of any sort, or by placement thereon of items for sale;
- F. Tend to depreciate the value of neighboring property, whether private or public.

§ 185-3. Purpose; public nuisances enumerated.

- A. Statement of purpose. In the exercise of its police powers and in acknowledgment of the fact that certain acts, omissions, and conditions on private property can and do contribute to the decline in appearance and value of private property, depreciate the value of neighboring property, thereby affecting the fiscal well-being of the entire Village, discourage desirable development in the Village, and diminish neighboring owners' enjoyment of their property.
- B. The Village Board does hereby declare the following acts, omissions, conditions and things to be public nuisances.
- C. Enumeration shall not be construed to exclude other nuisances falling within the definitions in § 185-2 and within the above statement of purpose.
 - (1) Outside storage of more than one motor vehicle of any type, including but not limited to cars, trucks, recreational vehicles, all-terrain vehicles, snowmobiles, motorcycles, trailers of all sorts,

including semitrailers. Outside storage of such vehicles shall not be a violation hereof if said items are screened from view.

- (2) Outside, unscreened or uncovered keeping of any unused, or untitled, or unregistered, or inoperable motor vehicles, or motor vehicles under repair or restoration. One of any such vehicles may be kept outside and unscreened from public view if they are covered with a slightly cover commonly used for protecting vehicles from the elements.
- (3) Outside, unscreened storage of disassembled, inoperable, unlicensed, junked or wrecked motor vehicles of any type, vehicle bodies, tractors, trailers, farm machinery, vehicle parts or accessories, tires, or appliances or parts for or parts of any of the above.
 - (a) The term "disassembled, inoperable, junked or wrecked motor vehicles, vehicle bodies, tractors, trailers, farm machinery" as used in this section is defined as follows: any of such vehicles or machinery as listed which are in such a physical or mechanical condition as to be incapable of self propulsion or being operated on the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires or wheels, expired or missing license plates or registration, or by reason of other defects.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- (4) Outside, unscreened storage of collections of recyclable materials;
- (5) Outside, unscreened display of materials allegedly or actually held and displayed for sale, except as permitted by ordinance for sales commonly known as "rummage, yard and garage sales," provided such sales are conducted for no more than five consecutive days not more than three times per year.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- (6) Failure of owner or occupant to maintain or repair the exterior of structures so that the exterior walls, soffit, fascia, windows, doors, porches, decks, rain gutters, down-spouts, chimneys or roof show visible obvious signs of the need for paint or other repairs, maintenance, replacement, or paint.
- (7) Failure of owner or occupant to keep yards mowed to a height of no more than six inches, except for areas designed and kept as wild-flower areas, and except flower and vegetable gardens kept separate from lawn areas.
- (8) Keeping of stacks or piles of firewood exceeding four feet in height; or keeping stacks or piles of firewood anywhere other than a back or side yard. All firewood shall be neatly stacked. "Firewood" is defined as any burnable material whether logs, boards, branches, pallets, or any other shape or form.

§ 185-4. Nuisances affecting health.

The following acts, omissions, places, conditions and things are declared to be public health nuisances; such enumeration shall not be construed to exclude other health nuisances coming within the definition of § 185-2.

- A. Adulterated food. All decayed, adulterated or unwholesome food or drink sold or offered for sale or given away 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 insects or vermin. Accumulations of decayed animal or vegetable matter, trash, rubbish, lumber, bedding, packing material, tires, scrap, and scrap metal or any other material in which flies, mosquitoes, disease-carrying insects, rats, mice or other vermin can live and/or breed.

- D. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can live, breed or multiply.
- E. Privy vaults and garbage containers. Privy vaults and garbage containers which are not insect- or vermin-tight.
- F. Noxious weeds. All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed six inches. The Village may cause all weeds and grass to be cut and removed and brush to be removed and the cost thereof to be charged to the property under § 66.0407, Wis. Stats.
- 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, fertilizers, insecticides, herbicides, fuels, oils, herbicides, or other substances.
- H. Noxious odors, etc. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effluvia, noises, or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health or comfort of any appreciable number of persons within the Village.
- I. Street pollution. Any use of property which causes any noxious or unwholesome liquid or other substance to flow or otherwise enter into or upon any street, gutter, alley, sidewalk or public place within the Village.
- J. Air pollution. The escape of smoke, soot, cinders, ash, acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village or within one mile thereof in such quantities as to endanger the health, comfort and well-being of persons of ordinary sensibilities or threaten or cause damage to property in the Village.

§ 185-5. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency; such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of § 185-2.

- A. Disorderly houses. All disorderly houses, bawdy houses, houses of ill-fame, gambling houses, drug houses, and buildings or structures used, kept, or resorted to for the purpose of prostitution, promiscuous sexual intercourse, gambling, use, storage, possession, delivery or sale of illegal drugs or illegal sale of legal drugs or illegal use of alcoholic beverages.
- B. Gambling devices. All gambling devices and slot machines.
- C. Unlicensed sale or delivery of liquor and beer. All places where intoxicating liquor, fermented malt beverages, or legal or illegal drugs are sold, possessed, stored, brewed, bottled, rectified, grown, bottled, packaged, manufactured, or delivered without a license or permit as provided for by the Village ordinances.
- D. Continuous violation of Village ordinances. Any place or premises within the Village where Village ordinances or state laws relating to health, safety, peace, morals, welfare or any of the public nuisance ordinances are repeatedly violated.
- E. Illegal drinking. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages or for the use, possession, delivery or sale of drugs in violation of state laws.

§ 185-6. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety. Such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of § **185-2**.

- A. Dangerous signs, billboards, etc. All signs, 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 Village ordinances relating to materials and manner of construction of buildings and structures within the Village, or which are in violation of zoning rules.
- 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 official traffic control devices or signs or railroad signs or signals 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. Low-hanging tree limbs. All limbs of trees which project over and less than 10 feet above any public sidewalk, street, or other public place.
- 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 state laws and Village ordinances.
- H. Dilapidated buildings. All buildings or structures which are so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary, or unfit for human use for those or other reasons.
- I. Low-hanging wires and cables. All wires and cables over streets, alleys, sidewalks or public grounds which are strung less than 15 feet above the surface thereof.
- J. Noisy or loose animals or fowl. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or other noises, disturbs a neighborhood or a reasonable number of persons of ordinary sensibilities. The keeping or harboring of any animal or fowl which frequently roams or wanders from its home and into or onto the premises of other persons or public places.
- K. Obstruction of streets; excavations. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the Village ordinances, 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, or should have been, accomplished or which do not conform to the permit.
- L. Unlawful assemblies. 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 numbers of people to gather, obstructing traffic and free use of the streets or sidewalks, or causing distress or discomfort to a reasonable number of persons, of ordinary sensibilities, in the vicinity.
- M. Blighted buildings and premises.
 - (1) Premises existing within the Village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences, and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the Village.

- (2) The blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection and other public services; the conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.
- (3) Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and this shall be fostered and encouraged by this chapter. It is essential to the public interest that this chapter be liberally construed to accomplish the purposes of this subsection.

§ 185-7. Dutch elm disease; definitions.

- A. Public nuisance declared. The Village Board, having determined that the health of the elm trees within the Village is threatened by a fatal disease known as "Dutch elm disease," hereby declares the following to be public nuisances:
 - (1) Any living or standing elm tree or part thereof infected with Dutch elm disease fungus or which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh) or *Hylurgopinus rufipes* (Marsh).
 - (2) Any dead elm tree or part thereof, including logs, branches, firewood, stumps or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.
- B. Village Forester. The Village Forester shall have the powers and perform the duties imposed by this section and by Ch. 27, Wis. Stats.
- C. Definitions. For the purpose of this section, the following phrases are defined as follows:

PUBLIC NUISANCE

- (1) Dutch elm disease.
- (2) Elm bark beetles *Scolytus multistriatus* (Eichh) or *Hylurgopinus rufipes* (Marsh).
- (3) Any living or standing elm tree infected with Dutch elm disease fungus or in a weakened condition which harbors any of the elm bark beetles.
- (4) Any dead elm tree or part thereof, including logs, branches, firewood, stumps or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying concentrate.

PUBLIC PROPERTY

Any premises owned or controlled by the Village, including but not restricted to public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards and terrace strips between the lot line and the curb or improved portion of any public way.

- D. Inspections.
 - (1) The Village Forester shall inspect at least twice a year all premises and places within the Village to determine whether any public nuisance exists thereon. He/she shall also inspect any elm tree reported or suspected to be infected with Dutch elm disease or any elm bark bearing material reported or suspected to be infested with elm bark beetles.
 - (2) Whenever necessary to determine the existence of Dutch elm disease or elm bark beetles in any tree, the Village Forester shall remove or cut specimens from the tree in such manner as to avoid permanent injury thereto and forward them to the State Department of Agriculture, Trade and Consumer Protection for analysis to determine the presence of such nuisances.

- (3) The Forester and his agents or employees may enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this section.

E. Abatement of nuisances.

- (1) The Forester shall order, direct, supervise and control the abatement of public nuisances by spraying, removal, burning or other means which he/she determines to be necessary to prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or vectors known to carry such disease fungus.
- (2) Whenever the Forester determines that a public nuisance exists on public, property in the Village, he/she shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus.
- (3) When the Forester determines with reasonable certainty that a public nuisance exists upon private premises, he/she shall immediately serve personally or by registered mail upon the owner of such property, if he/she can be found, or upon the occupant thereof, a written notice of the existence of such nuisance, directing that the nuisance be abated within 10 days after service of such notice. Such notice shall describe the nuisance and recommend the procedure for its abatement and shall state that, unless the owner abates the nuisance as specified in the notice, the Forester will cause the abatement thereof at the expense of the property served. If the owner or occupant cannot be found, such notice shall be given by publication in a newspaper of general circulation in the Village.

F. Spraying.

- (1) Whenever the Forester determines that any elm tree or part thereof is infected with Dutch elm disease fungus or is in a weakened condition and harbors elm bark beetles, he/she may cause all elm trees within a one-thousand-foot radius thereof to be sprayed with an effective elm bark beetle destroying concentrate.
- (2) To facilitate the work and minimize the inconvenience to the public of any spraying operation conducted under this section, the Forester shall cause to be given advance public notice of such operation by newspaper, radio, television public service announcements or other effective means and shall cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least 24 hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the Forester shall also notify the Chief of Police, who shall make and enforce such temporary parking and traffic regulations on such streets as conditions require. Temporary "no parking" notices shall be posted in each affected block of any street at least 24 hours in advance of spraying operations.
- (3) If appropriate warning notices and temporary "no parking" notices have been given and posted in accordance with Subsection **F(2)** above, the Village shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the Forester shall notify the owner of such property and proceed in accordance with Subsection **E(3)**.

G. Special assessments for tree care and abatement.

- (1) The cost of abatement of a public nuisance or spraying elm trees or elm wood at the direction of the Forester, if the nuisance tree or wood is located in a public park or on other public grounds, shall be borne by the Village.
- (2) The cost of abating a public nuisance or spraying elm trees or elm wood located on private premises or in the public right-of-way, when done at the direction and under the supervision of the Forester, shall be assessed to the property on which such nuisance tree or wood is located or which abuts on the public right-of-way in which such nuisance tree or wood is located, as follows:

- (a) The Forester shall keep account of the cost of such work or spraying and the amount chargeable to each lot or parcel and shall report such work charges, the description of lands to which they are chargeable and the names and addresses of the owners of such lands to the Village Clerk on or before October 15 of each year.
- (b) The Village Clerk shall mail notice of the amount of such final assessment to each owner of property assessed, at his last known address, stating that, unless paid within 30 days of the date of the notice, such assessment shall bear interest at the rate of 8% per annum and will be entered on the tax roll as a delinquent tax against the property; and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.
- (c) The Village hereby declares that, in making assessments under this section, it is acting under its police power. No damages shall be awarded to any owner for the destruction of any diseased or infested elm tree or elm wood or part thereof.

H. Prohibited acts. No person shall:

- (1) Transport any bark bearing elm wood, elm bark or elm material on public streets or highways or other public premises without first securing the written permission of the Forester.
- (2) Interfere with or prevent any act of the Forester or his agents or employees while they are engaged in the performance of duties imposed by this section.
- (3) Refuse to permit the Forester or his duly authorized representative to enter upon his premises at reasonable times to exercise the duties imposed by this section.
- (4) Permit any public nuisance to remain on any premises owned or controlled by him/her when ordered by the Forester to abate such nuisance.

§ 185-8. Box elder trees.

All female box elder trees and all other box elder trees infected with box elder bugs are a nuisance and shall be removed by the owner thereof within five days after written notice to remove such trees given by the Village Forester. If the owner of the land upon which any such tree is located fails to remove the tree within five days as required by the Village Forester, the Forester may enter upon the land and remove such tree and assess the cost thereof to the property owner as a special charge against the property.

§ 185-9. Abatement of public nuisances.

- A. Enforcement. The police officers, Street/Public Works Supervisor, Building Inspector, Fire Chief, the Village Board, or any person designated from time to time by the Village Board shall enforce the provisions of this chapter. They shall make periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be commenced to abate any such nuisance unless any such officer(s) or persons shall have inspected, or caused to be inspected, the premises where the nuisance is alleged to exist and is satisfied that a nuisance does exist.
- B. Summary abatement. If the inspecting person determines that a public nuisance exists and that there is great and immediate danger to the health or safety of the occupants of the affected premises or neighboring properties or the public, or to the public health, safety, peace, morals, or decency, the Village President, upon recommendation of the appropriate inspecting person, may direct the proper officer or department to cause the nuisance to be abated and charge the cost thereof to owner, occupant or person or entity causing, permitting, or maintaining the nuisance, as the case may be.
- C. Abatement after notice. If the inspecting person determines that 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/she shall serve notice on the

person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed with such 10 days, the proper officer shall cause the nuisance to be removed as provided in Subsection **B**.

- 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 any other manner in accordance with the laws of this state.

§ 185-10. Cost of abatement.

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 the nuisance, and such cost shall be assessed against the real estate as a special charge.

§ 185-11. Violations and penalties.

Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a penalty as provided in § **1-4** of this Code.