

ORDINANCE NO. 2004-8


AN ORDINANCE TO REPEAL AND RECREATE CHAPTER 12 OF THE MUNICIPAL CODE OF THE VILLAGE OF HIGHLAND, IOWA COUNTY, WISCONSIN, RELATING TO PUBLIC NOTICES

THE VILLAGE BOARD OF THE VILLAGE OF HIGHLAND, IOWA COUNTY, WISCONSIN, DO ORDAIN AS FOLLOWS:

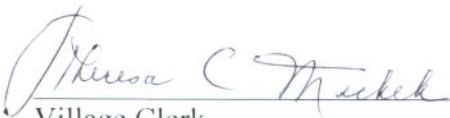
Section 1: Chapter 12 of the Municipal Code is hereby repealed and recreated to read as attached hereto and incorporated herein by this reference as if fully set forth herein.

Section 2: This ordinance shall take effect immediately upon passage and posting as provided by law.

Dated this 9th day of December, 2004.


Village President

COUNTERSIGNED:


Village Clerk

Date Adopted:	December 6, 2004
Date Recorded:	December 9, 2004
Date Posted:	December 9, 2004
Date affidavit filed:	December 9, 2004
Effective Date:	December 9, 2004

CHAPTER 12

PUBLIC NUISANCES

12.01	Public Nuisances Prohibited
12.02	Definitions
12.03	Abatement of Public Nuisances
12.04	Cost of Abatement
12.05	Abandoned Motor Vehicles
12.06	Licenses for Peddlers, Canvassers and Transient Merchants
12.07	Penalties

12.01 PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Highland. A separate offense occurs each day or part of a day on which a public nuisance exists.

12.02 DEFINITIONS

(1) 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.

(2) Public Nuisance 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 subsection (1) of this section.

- (a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (b) 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) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any materials whatsoever.

(d) All stagnant water in which mosquitoes, flies or other insects can multiply.

(e) All noxious weeds and other rank growth of vegetation, including but not limited to weeds, grasses and similar vegetation exceeding four (4) inches in height.

(f) All dogs running at large.

(g) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.

(h) The pollution of any public well or cistern, stream, lake or other body of water by sewage, creamery or industrial wastes or other substances.

(i) Any use of property, substances or things within the Village of Highland emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench 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.

(j) All abandoned wells not securely covered or secured from public use.

(k) 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.

(l) The housing, pasturing or keeping of cattle, livestock, hogs, sheep or horses within the Village Limits of the Village of Highland, within two hundred feet of the dwelling of any adjoining owner or occupant.

(3) 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 (1) of this section.

(a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purposes of prostitution, promiscuous sexual intercourse or gambling.

(b) All places where illegal drugs are manufactured or sold.

(c) 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 the ordinances of the Village of Highland except that this subsection shall not be construed to prohibit making wine or brewing beer for the vintner's or brewer's own consumption.

(d) Any place or premises within the Village of Highland where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(e) 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.

(4) Public Nuisances Affecting Peace and Safety. The following acts, omission, places, condition 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) 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) All buildings erected, repaired or altered within the fire limits of the Village of Highland in violation of the provisions of the ordinances of the Village, relating to materials and manner of construction of buildings and structures within said district.

(c) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway which purport to be or may be mistaken as an official traffic control device or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal, including the use of blue lights or reflectors.

(d) 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) All limbs of trees which project over and less than fourteen feet above the surface of a public sidewalk or street or less than ten feet above any other public place.

(f) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.

(g) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(h) All wires over streets, alleys or public grounds which are strung less than fifteen feet above the surface thereof.

(i) All loud, discordant and unnecessary noises or vibrations of any kind.

(j) 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) 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.

(l) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(m) All abandoned refrigerators or freezers 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) 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.

(o) Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.

(p) All snow and ice on sidewalks not removed and/or treated with an ice-melting product.

12.03 ABATEMENT OF PUBLIC NUISANCES

(1) Inspection of Premises. Whenever complaint is made to the Village President that a public nuisance exists within the Village of Highland, he or she shall promptly notify the Officer in Charge or other authorized Village official who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his or her findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk.

(2) Summary Abatement.

(a) 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 may direct the Officer in Charge or other authorized Village official to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(b) 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 in Charge or other authorized Village official shall cause the abatement or removal of such public nuisance.

(3) 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 health, safety, peace, morals or decency, he or she shall file a written report of his or her findings with the Village President who may cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Iowa County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes.

(4) Other Methods Not Excluded. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the Village of Highland or its officials in accordance with the laws of the State of Wisconsin.

12.04 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 costs of abatement incurred by the Village may be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost may be assessed against the real estate as a special charge.

12.05 ABANDONED MOTOR VEHICLES

(1) Vehicle Abandonment Prohibited. No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any public street or highway or public or private property not belonging to said person, for such time and under such circumstance as to

cause the vehicle to reasonably appear to have been abandoned. When any such vehicle, belonging to any person other than a motor vehicle dealer licensed by the State of Wisconsin, is not licensed and has been left unattended on any Village street or highway or any public property within the Village without the permission of the owner for more than seventy-two hours; the vehicle is deemed to be abandoned and constitutes a public nuisance. When any such vehicle, without a license, belonging to any person other than a motor vehicle dealer licensed by the State of Wisconsin, has been left unattended on any private property not belonging to said person within the Village for more than one week, and the same is not surrounded by fences or walls to prevent the same from being seen by the public, the vehicle is deemed to be abandoned and constitutes a public nuisance.

(2) Removal and Impoundment of Abandoned Vehicles. Any vehicle in violation of this section may be impounded until lawfully claimed or disposed of under Section 12.06(3) of this code, except that if the Officer in Charge or his or her duly authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the Village prior to the expiration of the impoundment upon determination by the Officer in Charge or his or her duly authorized representative that the vehicle is not wanted for evidence or other reasons.

(3) Disposal of Abandoned Vehicle.

(a) If the Officer in Charge or his or her duly authorized representative determines that the value of the abandoned vehicle exceeds One Hundred Dollars (\$100.00), he or she shall notify the owner and lien holders of record by certified mail that the vehicle has been deemed abandoned and impounded by the Village and may be reclaimed within fifteen days upon payment of accrued towing, storage and notice charges and if not so reclaimed shall be sold.

(b) In the event an abandoned vehicle determined to exceed One Hundred Dollars (\$100.00) in value is not reclaimed within the period and under the conditions as provided above, it may be sold at private sale, by public auction, or by sealed bids, as the Officer in Charge shall determine. In the event the vehicle is not sold at private sale the description of the vehicle and the terms of sale shall be published as a Class 1 notice five days before the sale.

(c) After deducting the expense of impoundment and sale, the balance of the proceeds, if any, shall be paid into the Village Treasury.

(d) Any abandoned vehicle which is determined by the Officer in Charge or his or her duly authorized representative to have a value of less than One Hundred Dollars (\$100.00) may be disposed of by direct sale to a licensed salvage dealer upon determination that the vehicle is not reported stolen.

(4) Owner Responsible for Impoundment and Sale Costs. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of

impoundment and disposing of the vehicle. Costs not recovered for the sale of the vehicle may be recovered in a civil action by the Village against the owner.

(5) Notice of Sale or Disposition. Within five days after the sale or disposal of a vehicle as provided in Section 12.06(3) of this code, the Officer in Charge or his or her duly authorized representative shall advise the Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposition on a form supplied by the Division. A copy of such form shall also be given to the purchaser of the vehicle. A copy shall also be retained on file in the Village.

12.06 LICENSES FOR PEDDLERS, CANVASSERS AND TRANSIENT MERCHANTS

(1) License Required. No person shall engage in the business of peddler, canvasser or transient merchant as herein defined within the Village of Highland without first obtaining a license therefore in compliance with the provisions of this section. Each peddler, canvasser or transient merchant must secure a personal license.

(2) Definitions. When used in this section the following terms shall have the following meanings:

- (a) "Peddler" shall include any person conveying or transporting goods, wares or merchandise who goes from house to house, place to place or street to street selling or offering for sale for immediate delivery such goods, wares or merchandise.
- (b) "Canvasser" shall include any person who goes from house to house, place to place or street to street, taking or attempting to take orders for the sale of goods, wares or merchandise or personal service to be performed in the future. Such definition shall include any person who hires, leases, uses or occupies any building, structure, vehicle or street or alley or other place or part thereof within the village for the primary purpose of exhibiting samples and taking orders for future delivery.
- (c) "Transient Merchant" means a person who engages in the sale of merchandise at any place in the Village temporarily and who does not intend to become and does not become a permanent merchant of that place.

(3) Exemptions. This section or any part thereof shall not apply to the following: newsboys, merchants delivering goods in the regular course of business, vendors of milk, bakery goods, groceries or ice, distributing products to regular customers on established routes, farmers and truck gardeners, religious, charitable, patriotic or philanthropic organizations, persons selling property at wholesale to dealers in such articles nor to any person engaged in auction sales as that term is used in Wis. Stat. sec. 66.0423.

(4) Fee. At the time of filing application, a \$25.00 application and administration fee shall be paid to the Village Treasurer to cover the cost of investigation of the facts stated in the application.

(5) Investigation and Issuance of License. Upon receipt of each such application, the Village Clerk shall refer it to the Officer in Charge, who shall immediately institute such investigation of the applicant's business and moral character as he or she deems necessary for the protection of the public good, including a background check, and shall endorse his or her approval or disapproval upon said application within 72 hours after it has been filed by the applicant, with the Clerk and return said application to the Clerk who shall issue or deny a license to the applicant in accordance with the Officer's recommendation. All licenses issued hereunder shall expire 30 days after date of issuance. Applications for renewals shall be handled in the same manner as original application.

(6) Rules and Regulations.

(a) License Not to Be Used by Another. No license issued under this section shall at any time be used by any person other than the one to whom it is issued.

(b) Invitation Required. No peddler, canvasser or transient merchant as herein defined shall go in or upon any private residence, business establishment or office in the village without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residence, business establishment or office for the purpose of soliciting orders for goods, wares and merchandise or peddling or hawking the same or soliciting subscriptions for magazines or other periodicals.

(c) Quitting Private Premises. No peddler, canvasser or transient merchant shall refuse or fail to leave any private premises in the village upon being requested to do so by the owner, occupant or person in charge thereof.

(7) Suspension and Revocation of License. Licenses issued under the provisions of this section may be revoked or suspended pending hearing by the Village Board for a period not to exceed 10 days by the Village President for any of the following causes:

(a) Fraud, misrepresentation or incorrect statement contained in the application for license;

(b) Fraud, misrepresentation or incorrect statement made in the course of carrying on business as a peddler, canvasser or transient merchant;

(c) Conviction of any crime or misdemeanor that is substantially related to the issuance of the license;

- (d) Conducting the licensed business in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

(8) Penalty. Any person who shall be convicted of a violation of this section shall in addition to any other penalty imposed, forfeit any license he may hold by virtue of the provisions hereof and shall not be entitled to another such license for a period of 6 months thereafter.

12.07 PENALTY PROVISIONS

(1) Any person who shall violate any of the provisions of this Chapter shall, upon conviction of such violation, be subject to a penalty, which shall be as follows:

(a) First Offense, Penalty. Any person who shall violate any provision of this Chapter subject to a penalty shall, upon conviction thereof, forfeit not less than \$5 nor more than \$200, together with the costs of prosecution and, in default of payment of such forfeiture and costs of prosecution, shall be subject to license suspension or contempt proceedings as provided by law.

(b) Second Offense, Penalty. Any person found guilty of violating any provision of this Chapter who shall previously have been convicted of a violation of the same provision shall, upon conviction thereof, forfeit not less than \$10 nor more than \$500 for each such offense, together with the costs of prosecution and, in default of payment of such forfeiture and costs, shall be subject to license suspension or contempt proceedings as provided by law.

(c) Schedule of Penalties To ensure uniformity and equal treatment of all persons who violate any provision of this Chapter, the forfeitures set forth in the following Schedule of Penalties shall be the penalty imposed unless, in the opinion of the officer issuing the citation or the Village Attorney, unusual circumstances exist which justify a different penalty.

VILLAGE OF HIGHLAND SCHEDULE OF PENALTIES FOR CHAPTER 12 VIOLATIONS (Add all court costs and surcharges to amounts listed)

<u>SECTION</u>	<u>DESCRIPTION</u>	<u>FIRST OFFENSE</u>	<u>SECOND AND SUBSEQUENT OFFENSE WITHIN 12 MONTHS</u>
12.01	Public Nuisances Prohibited	\$10.00	\$ 50.00
12.05	Abandoned Motor Vehicles	\$20.00	\$100.00
12.06	Licenses for Peddlers, Canvassers and Transient Merchants	\$10.00	\$ 50.00

- (2) Property Damage. In addition to any penalty imposed for the violation of any

provision of this chapter, any person who shall cause physical damage to or destroy any property shall be liable for the cost of replacing or restoring such damaged or destroyed property. The parent or parents of any unemancipated minor child who shall cause physical damage to or destroy any property of this chapter may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035 of the Wisconsin Statutes.