

CHAPTER 25

NUISANCES

ARTICLE I - GENERALLY

25-1-1 **SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the Village for any person within the limits of the Village to permit the following, but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited, or to remain in any place to the prejudice of others.

(B) **Deposit of Offense Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any watercourse, lake, pond, spring, well, or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome or inure the water of any spring, river, stream, pond or lake to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **five hundred (500) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns at a point different from that appointed according to law by the corporate authorities of the town, or within **one thousand (1,000) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place or the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I) **Wells Unplugged.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled.

(J) **Burn-Out Pits.** To construct or operate any salt water pit or oil field refuse pit, commonly called a "burn-out pit", so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse.

(K) **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well, or fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply, or from one underground stratum to another.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease or has bought or leased a residence or other real property, when the harassment, intimidation or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain and carry on any offensive or unwholesome business within the limits of the Village or within **one and one-half (1 1/2) miles** of the limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept in a foul, offensive, nauseous or filthy condition, any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by him, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the Village from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the Village.** To bring into the Village, or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance or thing which shall be a nuisance or which shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive or putrid, nor permit any such liquid to be discharged, placed, thrown or to flow from or out of any premise into or upon any adjacent premises or any public street or alley nor permit the same to be done by any person connected with the premises.

(V) **Motor Transport Engines.** To operate motor transport engines in the nighttime between the hours of **eight (8:00) o'clock P.M.** and **six (6:00) o'clock A.M.,** in any place in which a majority of the buildings, within a radius of **four hundred (400) feet** are used exclusively for residence purposes, excluding state and federal highways.

(W) **Generally.** To commit any offense which is a nuisance according to the common law of the land or made such by Statute of the State.

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the Village if such use, keeping, maintaining of same shall be dangerous or detrimental to health.

25-1-3 NOTICE TO ABATE. Whenever the Village President believes that a nuisance exists, he shall direct the Village Clerk or Village Attorney to mail (certified) to the party responsible for the nuisance and to the owner of record of the property a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) A statement of which provision of this Code of Ordinances or statute is violated by the nuisance;
- (E) The date by which abatement must be completed;
- (F) If applicable, the date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (G) If applicable, a statement that the responsible party has a right to appeal the abatement order to the Village Board.
- (H) If applicable, a statement indicating that if the nuisance is not abated by the date prescribed or if no request for hearing is made within the time prescribed, this municipality may abate the nuisance and assess the costs against the property or at the Village's option, apply for relief in the Circuit Court for any appropriate relief, including an injunction and a fine.
- (I) If applicable, a statement indicating that if the nuisance is not abated by the date prescribed, the Village may apply for relief in the Circuit Court for any appropriate relief, including an injunction and a fine. **(Ord. No. 03-13; 07-16-03)**

25-1-4 ABATEMENT BY VILLAGE. If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this municipality may perform the required action to abate. Any municipal official who is authorized to abate any nuisance as defined in this Chapter shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the Village Clerk who shall pay such expenses on behalf of this Village.

25-1-5 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Chapter. The corporate authorities shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

(See 65 ILCS Sec. 5/11-60-2 and 740 ILCS Secs. 55/221 and 55/222)

ARTICLE II - WEEDS

25-2-1 **DEFINITIONS.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Ragweed (giant), Ragweed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp and Johnson Grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding **ten (10) inches** anywhere in the Village. Any such plants or weeds exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor or Village Board may issue a written Notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such Notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the Notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the Notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Village may proceed to abate and such expense shall be charged and paid by such owner or occupant.

25-2-6 **LIEN.** Charges for such weed removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense 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 and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village after lien is in effect for **sixty (60) days**.

(See 65 ILCS Secs. 5/11-20-6 and 5/11-20-7)

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Mayor, Chief of Police, or the Mayor's designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Village may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense 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 and the release shall be filed of record in the same manner as filing notice of the lien.

25-3-7 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

(See 65 ILCS Sec. 5/11-20-13)

ARTICLE IV - INOPERABLE AND ABANDONED VEHICLES

25-4-1 **DEFINITIONS.** As used in this Chapter, the following terms have the following meanings:

"Abandoned Vehicle": As defined in Section 1-101.05 of the Illinois Vehicle Code, **625 ILCS 5/1-101.5**, an "abandoned vehicle" is any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any motor vehicle that has not been moved or used for **seven (7) consecutive days** or more and is apparently deserted.

"Inoperable Motor Vehicle": As defined in Section 11-40-3 of the Illinois Municipal Code, **65 ILCS 5/11-40-3**, an "inoperable motor vehicle" is any motor vehicle from which, for a period of at least **seven (7) days**, the engine, wheels, tires, or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicles over **twenty-five (25) years** of age, nor to a motor vehicle on a premises lawfully engaged in the wrecking and junking of motor vehicles.

"Person": Any human being, firm, partnership, association, corporation, company, or organization of any kind.

"Property": Any real property, public or private, within the corporate limits within the Village that is not a street or highway.

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

"Motor Vehicle": As defined in Section 1-146 of the Illinois Vehicle Code, a "motor vehicle" means every vehicle which is self-propelled, except for vehicles moved solely by human power and motorized wheelchairs.

25-4-2 **INOPERABLE OR ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY.** Inoperable motor vehicles which are on public property, a street or a highway, are hereby declared a nuisance. They shall be towed or otherwise dealt with by the Police Department in accordance with procedures set forth in Chapter 4, Article II of Illinois Motor Vehicle Code, **625 ILCS 5-201 et seq.**, which is herein incorporated by reference together with all future amendments thereto.

25-4-3 **INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.**
 (A) Inoperable motor vehicles on private property are hereby declared a nuisance.

(B) Whenever a police officer discovers an inoperable motor vehicle on private property, the officer shall determine the owner of record of the property, and if the vehicle has a license plate, the owner of the vehicle. The officer shall attempt to determine the identity of persons occupying the property if different from the owner of record. The officer shall cause a notice in substantially the following form to be mailed, by Certified U.S. Mail, return receipt requested, or by personal delivery to the owner of record of the property, and to all persons known to the officer, after reasonable investigation, to occupy such property, and also to the owner of the motor vehicle, if the owner is known. **(See Notice at end of Chapter)**

(C) Notice by certified mail pursuant to this Section shall be accomplished if the Village receives a return receipt from the addressee or if the certified or regular mailing is returned "unclaimed" or "refused".

(D) In the event that a violation of **Section 25-4-2** or **25-4-3** is not corrected within the time specified in the notice, or if there is a hearing conducted by the Chief of Police in accordance with the notice and the Chief determines that the vehicle is inoperable, then within **five (5) days** after the hearing, the Police Department may proceed to tow and dispose of the inoperable motor vehicle in accordance with the procedures set forth in Chapter 4, Article II of Illinois Motor Vehicle Code, **625 ILCS 4-201 et seq.**, which is herein incorporated by reference.

25-4-4 ABANDONED BUT NOT INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY. Vehicles which are not inoperable, but which are abandoned in the sense of not having been moved for **seven (7) consecutive days** or more and being apparently deserted, may be removed by the Police Department and otherwise dealt with in accordance with Article II of Section 4 of the Illinois Vehicle Code, but only if:

- (A) the owner of the property on which the vehicle was abandoned is different from the owner of the vehicle; and
- (B) the owner of the property on which the vehicle was abandoned requests the Police Department to take action; and
- (C) if approved by the Chief of Police in his sole discretion.

25-4-5 OTHER REMEDIES. In addition to any other remedies, the corporate authorities may at any time instruct the Village Attorney to filing a lawsuit in the Circuit Court of Sangamon County, seeking any or all remedies available in the Illinois Municipal Code respecting abatement of nuisances. The corporate authorities may seek penalties in accordance with **Section 25-4-7** of this Chapter.

25-4-6 PARKING OF VEHICLES WITH EXPIRED REGISTRATION STICKERS. No person may stop, park, or leave standing upon a public street, highway, or roadway a vehicle upon which is displayed an Illinois registration plate

or plates or registration sticker after the termination of the registration period for which the registration plat or sticker was issued or after the expiration date set by Section 3-314 or 3-314.1 of the Illinois Vehicle Code.

25-4-7 PENALTIES AND REMEDIES.

(A) Any person who violates or aids and abets in the violation of **Section 25-4-2, 25-4-3 or 25-4-4** of this Chapter shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**, plus the cost to the Village of its attorney's fees and shall be required by the Court to make a disposition on the abandoned, unclaimed, or inoperable vehicle. Each day a violation occurs shall constitute a separate offense.

(B) In addition to the remedies set forth in this Chapter and in Article II of Chapter 4 of the Illinois Motor Vehicle Code, the Village may bring a common law nuisance action against a person who is responsible for a nuisance as defined in this Chapter, and in connection therewith, may seek all remedies available in law or equity in connection with such an action, and shall be entitled as part of the action to an award of its attorneys fees and costs.

(C) A person who violates **Section 25-4-6** of this Chapter shall be fined the sum of **Twenty-Five Dollars (\$25.00)** for each violation. Each day a violation occurs shall constitute a separate offense.

(Ord. No. 03-14; 07-16-03)
(See 65 ILCS Sec. 5/11-40-3)

ARTICLE V - BUILDING AS NUISANCE

25-5-1 BUILDING CONDITION - NUISANCE. The Police Chief shall report to the Village Board when any building, structure or mobile housing unit in the Village is in a dangerous condition and constitutes a nuisance. All references to building shall include structure or mobile housing unit.

25-5-2 TIME LIMIT. The owner of such building shall repair or alter it so as to make it safe within **ninety (90) days** from the time the notice is served upon him in the manner provided by law.

25-5-3 NOTIFICATION. The Police Chief with the approval of the Village Board shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the Village Officials. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until, such notice is complied with."

25-5-4 DANGEROUS AND UNSAFE BUILDINGS DEFINED. All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Village.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or property.

(J) Those buildings existing in violation of any provision of the Revised Code of this Village, or any other ordinances of the Village.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

25-5-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards shall be followed in substance by the Police Chief in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired to that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" is **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the Village, or statute of the State of Illinois, it shall be demolished.

25-5-6 DANGEROUS AND UNSAFE BUILDINGS - NUISANCES. All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

25-5-7 **DUTIES OF THE ATTORNEY.** The Village Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Police Chief.

25-5-8 **LIENS.** The cost of repair, demolition, vacation, or enclosure 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 existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the Village or person performing the service by authority of the Village, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

- (A) A description of the real estate sufficient for identification therefor;
- (B) The amount of money representing the cost and expense incurred or payable for the service; and
- (C) The date or dates when said cost and expense was incurred by the Village.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the Village or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.

(See 65 ILCS Sec. 5/11-31-1)

ARTICLE VI – NOISE

25-6-1 DEFINITIONS. The following words, terms and phrase, when used in this Chapter, shall have the meanings except where the context clearly indicates a different meaning:

"Boundary line" means:

(A) In the case of a dwelling unit in a duplex or multifamily structure, the boundary line shall be the perimeter of such dwelling unit.

(B) In the case of publicly owned property, the boundary line shall be the lot line of a publicly-owned zoning lot or a publicly owned right-of-way.

(C) In all other cases, the boundary line shall be the lot line of a zoning lot.

(D) Lot lines of zoning lots shall be determined in accordance with the Zoning Chapter of this Code of Ordinances.

"Construction" means on-site erection, fabrication, installation, alteration, repair, remodeling, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth-moving, excavation, drilling, blasting and landscaping.

"Dwelling Unit" has the same meaning as in the Zoning Chapter of this Code of Ordinances.

"National Holiday" means a holiday observed by the United States government.

"Residential" means a legal use of property for temporary or permanent dwelling purposes.

25-6-2 APPLICABILITY. This Article applies to all sources of sound except aircraft in flight, railroad equipment in operation on a railroad right-of-way, and motor vehicles. Such sources of sound may be regulated pursuant to other laws and regulations of the State of Illinois or other entities.

25-6-3 PROHIBITED ACTIVITIES. No person shall conduct any of the following activities if any such activity produces clearly audible sound beyond the boundary line of the property or dwelling unit on which or in which the activity is conducted:

(A) Construction between **9:00 P.M.** and **7:00 A.M.** during the months of October through May, and **10:00 P.M.** and **5:30 A.M.** during the months of June through September;

(B) The operation of power tools or power equipment, except in connection with:

(1) construction activities as set forth in subsection (A), or

- (2) business activities (other than entertainment) in an area zoned Industrial during the hours of **7:00 A.M.** to **7:00 P.M.**,
 - (3) occasional and reasonable hobby activities in areas zoned residential, during the hours of **7:00 A.M.** to **7:00 P.M.**
- (C) The operation of any bell, siren, whistle, or similar device, except that amplified or unamplified bells or chimes may be used for noncommercial purposes for reasonable lengths of time;
- (D) The operation of any device for killing, trapping, attracting or repelling insects except that such device may be used between the hours of **7:00 A.M.** and **10:00 P.M.**;
- (E) Except as permitted in accordance with **Section 25-6-7**, the operation or use of any sound amplification device, except that sound amplification devices may be used in areas zoned Business and Industrial between the hours of **7:00 A.M.** and **10:00 P.M.** if the sound produced by such device is not clearly audible at the boundary line of any residential unit, and is not clearly audible at any one location for an unreasonable length of time;
- (F) The use of any musical instrument, except that single musical instrument without amplification may be used between the hours of **7:00 A.M.** and **10:00 P.M.** for reasonable lengths of time.

25-6-4 EXEMPTIONS. The following activities are exempted from the prohibitions set out in **Section 25-6-3**:

- (A) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities, or to protect persons or property from an imminent danger;
- (B) Sound made to alert persons to the existence of an emergency, danger or attempted crime;
- (C) Parades, concerts, festivals, fairs or other such activities which are open to the general public and operated or conducted in accordance with other applicable ordinances and pursuant to a permit or other specific approval of the corporate authorities of the Village;
- (D) The Sangamon County Fair;
- (E) Athletic, musical or cultural activities or events, including practices and rehearsals, conducted by or under the auspices of governmental units or educational institutions.
- (F) Bells used in connection with religious buildings and religious services.
- (G) Parties sponsored by private individuals on private property, not open to the general public, and for which the sponsor has obtained a permit in accordance with **Section 25-6-7**. Such parties may be held only after Noon on Fridays, Saturdays, Sundays and national holidays, subject to the following additional limitations:

- (1) Music and noise may be clearly audible past the property line only until **11:00 P.M.**, Friday and Saturday;
- (2) Music and noise may be clearly audible past the property line only until **8:00 P.M.** on a Sunday unless the following Monday is a national holiday, in which case music and noise may be clearly audible past the property line until **11:00 P.M.**;
- (3) Music and noise may be clearly audible past the property line only until **8:00 P.M.** on a national holiday which falls on Monday through Thursday;
- (4) Notwithstanding subsections (1) through (3) above, in the event the Police Department receives multiple complaints of amplified sound generated by a private party for which a permit has been obtained; and if the Police Department verifies that such amplified sound may be heard beyond the boundary lines of the property for which the permit was issued; and if, in the opinion of the Police Chief or the senior police officer on duty, such amplified sound constitutes a threat to the public health, safety or welfare, the Police Chief or the senior officer on duty, may revoke the permit and cause the party to be shut down.

25-6-5 PRESUMPTION OF ACCOUNTABILITY.

(A) The occupant of a property or dwelling unit, and the agent of the occupant on which a generally or specifically prohibited activity takes place shall be presumed to have permitted the activity to occur.

(B) The occupant of the property or dwelling unit, and any agent of the occupant who permits another person to create a noise or conduct an activity in violation of this Article shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity, and shall be subject to the same punishment.

25-6-6 PRIVATE PARTY NOISE PERMITS.

(A) No person shall knowingly sponsor, engage in, conduct or participate in any private party or gathering, conducted on private property, which includes any kind of amplified music or other amplified noise which is clearly audible beyond the boundary line of the property unless a permit has been obtained therefore.

(B) A person desiring a permit for a private party with amplified music or noise which is clearly audible beyond the boundary line of the property shall submit an application for the permit at least **seven (7) calendar days** prior to the party to the Chief of Police on an application form to be designed by the Chief of Police which will contain, as a minimum, the following information:

- (1) The name, address and telephone number of the owner of the property at which the party will be held;
 - (2) An estimate of the number of persons who will attend;
 - (3) A description of the number and type of musicians or musical presentations proposed to be part of the party, and the number and type of sound amplification devices proposed to be used;
 - (4) A statement of whether alcoholic beverages will be provided as part of the event;
 - (5) An acknowledgement that the sponsor has read this Article and is familiar with the hour limitations contained therein.
- (C) The Chief of Police shall grant the permit unless:
- (1) The applicant or the property has already received **two (2)** such permits in the previous year; or has had a permit revoked in the previous year; or
 - (2) The information on the application is incomplete or inaccurate.
- (D) If the Chief of Police denies an application for a party permit, the applicant shall have an immediate right of appeal to the Village President, who will conduct an informal hearing within **two (2) business days**, and whose decision is subject to administrative review.
- (E) The sponsor of the party shall have the party noise permit available for inspection by law enforcement officers for the duration of the party.

25-6-7 **NUISANCE DECLARED.** The Village hereby declares that operation of any premises in violation of this Article is a nuisance. In addition to any other remedies available to the Village, the Village may sue the owner and operator of any premises which is in violation of this Article, to abate and restrain such a nuisance.

25-6-8 **PENALTIES.** Any person, firm or corporation who or which violates any provision of this Article, or owns a lot on which a violation occurs, or fails to remedy a violation upon order of the Chief of Police or other law enforcement officer, shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day a violation occurs shall be deemed a separate offense.

(Ord. No. 08-02; 03-19-08)

ARTICLE VII – DRY DETENTION AREAS

25-7-1 **DEFINITIONS.** As used in this Chapter, unless the context requires otherwise:

"Dry detention area" means any area or structure designed to detain the flow of storm water from real property and to release such flow at a controlled rate to downstream real property which is physically located within the corporate limits of the Village or, is subject to the jurisdiction of the Village through the operation of an annexation agreement or otherwise.

"Responsible homeowner association" means any corporation, unincorporated association or other legal entity formed pursuant to subdivision covenants or other agreement of the property owners in a subdivision and having the responsibility, pursuant to subdivision covenants, principles of drainage law or otherwise, to establish, construct, own, operate or maintain a dry detention area within or serving one or more recorded lots.

"Responsible developer" means the owner of a dry detention area serving one or more recorded lots, where no responsible homeowner association has been formed which has the responsibility, pursuant to subdivision covenants, principles of drainage law or otherwise, to establish, construct, own, operate or maintain a dry detention area.

"Other responsibility party" means any person, firm, corporation or other entity other than a responsible homeowner association or responsible developer, which owns a dry detention area or has responsibility pursuant to subdivision covenants, principles of drainage law or otherwise, to establish, construct, own, operate or maintain a dry detention area serving one or more recorded lots. "Other responsible party" may include, but is not limited to (1) a property owner or lessee whose property includes all or part of a dry detention area; and (2) a property owner or lessee who is charged pursuant to a subdivision covenant with responsibility for a dry detention area.

"Superintendent" means the Superintendent of Public Works of the Village.

25-7-2 **DUTIES OF RESPONSIBLE HOMEOWNER ASSOCIATIONS, RESPONSIBLE DEVELOPERS, AND OTHER RESPONSIBLE PARTIES WITH RESPECT TO DRY DETENTION AREAS.** Responsible homeowner associations, responsible developers, and other responsible parties shall, with respect to their respective dry detention areas:

(A) Provide such information to the Superintendent as is required from time to time by the Superintendent,

(B) On or before **November 1, 2016**, and during the month of June of each year thereafter, schedule an inspection of the dry detention area with the Superintendent or the Superintendent's designee (who may be an employee of the Village's consulting engineer), who shall record conditions thereof on a form attached to this Chapter as **Appendix "A"**.

(C) Take all corrective action noted by the Superintendent in connection with the annual inspection, or by the Village's consulting engineer after an inspection pursuant to **Section 25-7-5** of this Article.

(D) Permit the Superintendent or employee of the Village's consulting engineers to inspect a dry detention area at any time upon reasonable notice.

(E) Comply with the maintenance standards set forth in **Section 25-7-4** of this Article.

25-7-3 COMPREHENSIVE INSPECTION BY VILLAGE'S CONSULTING ENGINEER. If during the annual inspection or at any other time, the Superintendent has reasonable cause to believe that the physical integrity of a dry detention area or its structures has been or is about to be compromised, or the dry detention area has been subject to sedimentation to the extent of more than **twenty percent (20%)** of its original design capacity, then the Superintendent may order a comprehensive inspection of the dry detention area to be performed by the Village's consulting engineer. The expense thereof shall be borne by the responsible homeowner association, responsible developer or other responsible party, and paid within **thirty (30) days** of presentation by the Superintendent of the consulting engineer's invoice.

25-7-4 MAINTENANCE STANDARDS FOR DRY DETENTION AREAS.

(A) Dry detention areas shall be maintained so as to be free the following things and conditions: trash and debris, noxious weeds or vegetation exceeding **eight (8) inches** in height, exposed soil, algae, stagnant moisture, unpleasant odors, sedimentation that reduces the design capacity by more than **twenty percent (20%)**, soil erosion, and holes from animals or other causes.

(B) Dry detention areas shall be maintained such that inflow, outflow and other structures are present and function as designed.

(C) If a dry detention area is fenced, the fence shall comply with Village fence regulations and shall be serviceable and free of holes and gaps.

25-7-5 NUISANCES. Dry detention areas which do not comply with the maintenance standards contained in **Section 25-7-4** of this Article, or which are in imminent danger of structural failure, are hereby declared a nuisance.

25-7-6 ENFORCEMENT.

(A) Any responsible homeowner association, responsible developer or other responsible person found to have violated any provision of this Article shall be liable to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)**.

(B) In addition to the penalties set forth herein, the Village may bring any appropriate action at law or in equity to restrain or compel the correction of any nuisance as defined in **Section 25-7-5** of this Article.

(Ord. No. 16-10; 09-21-16)