

## CHAPTER 7

**7.01 PUBLIC NUISANCES PROHIBITED.** No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Village.

**7.02 PUBLIC NUISANCES DEFINED.**

- A. GENERAL DEFINITION. A public and private nuisance is a thing, act, occupation, condition, or use of property that continues for such length of time as to:
1. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public; or
  2. In any way render the public insecure in life or in the use of property; or
  3. Greatly offend the public morals or decency; or
  4. Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public or private way, or the use of public or private property.
- B. STATUTORY NUISANCE. Any thing, act, occupation, condition, or use of property that has been defined by the Wisconsin Statutes as a public nuisance is a public nuisance under this Chapter.
- C. CONTINUING ORDINANCE VIOLATION. Any violation or continuing violations of the Village of Allouez Municipal Code that is not corrected after notice from the Village to a responsible party is a public nuisance.

**7.03 PUBLIC NUISANCES AFFECTING HEALTH.** The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances:

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale or free to the public.
2. Carcasses of animals, bird, fish, 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.
3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting wood, bedding, packing material, abandoned vehicles or machinery, scrap metal, or any materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed or which may constitute a health or fire hazard.
4. Standing water on any property within the Village (except water impounded on farm land for agricultural purposes or water contained for storm water management) including above ground portable pools containing more than 30 gallons of water are considered an attractive nuisance. Such pools shall have a lockable or secured safety cover capable of supporting a child's weight or are required to meet fence requirements. There will be no "grandfathering" secondary to life safety issues.
5. Garbage cans without secured lids.
6. All noxious weeds and other rank growth of vegetation.
7. All animals running at large.

8. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the Village limits there from in such quantities as to endanger the health of persons or to adversely and substantially affect a person of ordinary sensibilities, sensitivity or to threaten or cause substantial injury to property in the Village.
9. The pollution of any public well or cistern, stream, lake, canal, storm water system or detention ponds or other body of water by sewage, creamery, or industrial wastes or other substances.
10. Any use within the Village of property, substances, or things emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia, or stenches repulsive to the physical senses of ordinary persons which annoy, or cause discomfort, injury, or inconvenience to the health of any persons within the Village.
11. Any use of property that causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, detention pond, storm sewer of a private or public place within the Village.
12. The construction and operation of a tank or tanks for the storage of substances in the Village whereby nauseous, offensive, or unwholesome odors are allowed to be emitted.
13. **OUTDOOR SOLID FUEL FURNACES.** No person shall install, cause to install, use or maintain an outdoor solid fuel furnace within the Village of Allouez.
14. Any violation regarding pet droppings as designated in Chapter 6 of the Allouez Municipal Code. All animal excrement shall be picked up/cleaned up immediately.
15. All stagnant water in which mosquitoes, flies or other insects can breed and multiply, bacteria can grow, or contains other debris or contaminants.

NOTE: All swimming pools shall be maintained in such a way as to not create a nuisance, hazard or otherwise result in a substantial adverse effect on neighboring properties or be in any way detrimental to public health, safety or welfare.

**7.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.** The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety:

1. 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.
2. All buildings and structures erected, repaired, or altered in violation of the provisions of any of the ordinances of the Village relating to materials and manner of construction of buildings and structures.
3. 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 railroad signs or signal or which, because of their color, location, brilliance, or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
4. 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. (Sight triangles must be in compliance with Municipal Code Chapter 26.09)
5. All limbs of trees which project over a public sidewalk less than 10 feet above the surface thereof or less than 14 feet above the surface of a public street.
6. All use or display of fireworks, except as provided by the laws of the State of Wisconsin and ordinances of the Village.
7. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.

8. All wires over streets, alleys or public grounds which are less than 15 feet above the surface of the street or ground;
9. All loud or discordant noises or vibrations of any kind;
10. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by Village ordinances; or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time.
11. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, sidewalk or from public or private property. Guards or temporary fences shall meet the minimum fence standards of Chapter 26 or the following standards: (temporary defined as 180 days by state statute)
  - a. 36" minimum height.
  - b. Two rows of brightly colored caution tape on steel fence posts or other sturdy supports completely surrounding the site, 36" minimum height.
  - c. Orange snow-fencing & steel fence posts or other sturdy supports completely surrounding the site, 36" minimum height.
  - d. Approved traffic style wooden, metal or equivalent barricades completely surrounding the site (36" minimum height) or wooden or metal placed to completely cover the opening for the entire length of the opening secured and capable of supporting 200lbs.
12. All outside refrigerators or iceboxes from which the doors and other covers have not been removed.
13. 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 crowds of people to gather, thereby obstructing traffic and free use of the streets or sidewalks.
14. All exhibitions within the Village of a motion picture, show, or other presentations which motion picture, show, or other presentation in whole or in part depicts nudity, sexual conduct, or sadomasochistic abuse, as defined in §944.25, Wis. Stats., in such a manner that the material is visible from any public street, sidewalk, thoroughfare, or other public or private place where it may be observed by minors or non-consenting adults or creates violations of Village of Allouez Municipal Code. For the purposes of this section, a motion picture rating "X" by the film industry shall be prima facie evidence that the film in whole or in part depicts nudity, sexual conduct, or sadomasochistic abuse and is, therefore, in violation of this chapter.
15. All use or maintenance of building exteriors or surrounding premises which limits the use or enjoyment of neighboring property or which causes or tends to cause diminution of the value of the property of others in the neighborhood in which such premises is located by reason of:
  - a. Exterior storage of wood, junk, trash, or other debris, including, without limitation of enumeration, storage of objects or equipment such as motor vehicles, furniture, appliances, farm or manufacturing equipment, building materials, or litter as defined in the Village of Allouez Municipal Code.
  - b. Premises must be maintained consistently with Chapter 18 of the Village of Allouez Municipal Code.
16. The placement or diverting of snow, ice, or water onto the property of another.
17. Any condition or practice constituting a fire hazard.
18. Any motor vehicle, trailer, semi-trailer or mobile home which is abandoned, as defined in Section 7.13 of this Code.

19. Any nuisance so defined by the Wisconsin Statutes.
20. Any building or structure that is used to facilitate the delivery, distribution or manufacture, as defined in s. 961.01(6), (9) and (13) respectively, of a controlled substance, as defined in s. 961.01(4), or a controlled substance analog, as defined in s. 961.01(4m), and any building or structure where those acts take place, is a public nuisance.

**7.05** **SUMMARY ABATEMENT.** If an officer determines that a public nuisance exists and that there is an imminent danger to public health, safety, peace, morals, or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Section 7.08, Village of Allouez Municipal Code. The notice shall order abatement of the nuisance within a period not less than 24 hours, unless exigent conditions exist which require abatement in a shorter period of time so long as the time period of the abatement is otherwise reasonable under the circumstances, or greater than seven calendar days and shall state that unless the nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, tenant, occupant, or person causing, maintaining, or permitting the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**7.06** **NONSUMMARY ABATEMENT.** If an officer determines that a public nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Section 7.08, Village of Allouez Municipal Code. The notice shall order abatement of the nuisance within seven to fourteen business days or less and shall state that unless the 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, maintaining, or permitting the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

**7.07** **ABATEMENT PLAN.** If an officer determines that a public nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, the officer may order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a hearing to discuss abatement of the nuisance. Notice of the hearing shall be issued and served by the officer pursuant to Village of Allouez Municipal Code. The parties may formulate an abatement plan, which indicates the measures to be taken by the owner, occupant, or person causing, maintaining, or permitting the nuisance to abate the nuisance.

**7.08** **NOTICE TO ABATE.** The officer may attempt personal service on the owner, agent of the owner, occupant or other person causing, maintaining or permitting the nuisance at such person's last-known address. If this attempt is unsuccessful or impractical, the officer shall post a copy of the notice in a conspicuous place in or about the building where the nuisance exists and send notice by first class mail to the last-known address of the owner or agent of the owner.

**7.09** **NON-ABATEMENT PROHIBITED.**

- A. **FAILURE TO COMPLY WITH ORDER TO ABATE.** No person shall fail to comply with a lawful order to abate a public nuisance issued pursuant to this section. Each day of non-compliance with a lawful order to abate issued pursuant to this section is a separate violation.
- B. **FAILURE TO APPEAR FOR HEARING.** No person shall fail to comply with an order to appear for an abatement hearing pursuant to Section 7.07, Village of Allouez Municipal Code.
- C. **FAILURE TO OBSERVE ABATEMENT PLAN.** No person shall fail to comply with the terms of an abatement plan.

**7.10** **ABATEMENT BY COURT ACTION.** If an officer determines that a public nuisance exists, the officer may refer the nuisance to the Village Attorney for review. If the Village Attorney determines that alternative enforcement methods have failed to abate the nuisance or would be ineffective in doing so, the Village Attorney may cause an action to abate such nuisance to be commenced in the name of the Village in the Brown County Circuit Court in accordance with the provisions of the Wisconsin Statutes.

**7.11** **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with State law.

**7.12** **ENFORCEMENT.** For the purposes of this Chapter, “officer” shall mean the Police, the Fire Chief, the Village Inspector, Code & Safety Enforcement Coordinator and their designees. These officers shall enforce the provisions of this chapter that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Sections 7.05 or 7.06, Village of Allouez Municipal Code, to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does in fact exist.

**7.13** **ABANDONED VEHICLES.**

A. **VEHICLE ABANDONMENT PROHIBITED.** No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any public highway, or on private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this subsection, whenever any vehicle has been left unattended for more than 48 hours on Village property, or on private property without the permission of the property owner, the vehicle is deemed abandoned and constitutes a public nuisance.

B. **IMPOUNDMENT AND DISPOSITION.**

1. Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under subparagraph 4., except that if it is deemed by a duly authorized Village representative that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the Village prior to expiration of the impoundment period upon determination by the Code Enforcement officer or sheriff that the vehicle is not stolen or otherwise wanted for evidence or other reason.
2. Any police officer, sheriff’s deputy, county traffic patrolman, state traffic officer or conservation warden who discovers any abandoned motor vehicle, trailer, semi-trailer, or mobile home on any public highway or private or public property, shall promptly cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle the officer or warden shall notify the Village code Enforcement officer of the abandonment and of the location of the impounded vehicle.
3. The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the Village against the owner. Whether or not the Village recovers the cost of towing and enforcement, the Village shall be responsible to the towing service for payment of the reasonable charges for the requested towing service and for the impoundment.
4. Any vehicle which is deemed abandoned by a duly authorized Village representative and not disposed of under subparagraph 1. shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lien holders of record, or after exhausting other reasonable practicable steps, to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lien holders of their right to reclaim the vehicle. The notice shall state that the failure of

the owner or lien holders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle. Each retained vehicle not reclaimed by its owner or lien holder may be sold. The village may dispose of the vehicle by sealed bid or auction sale. At such sale the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by a duly authorized Village representative, in which event all bids may be rejected. If all bids are rejected or no bid is received, the Village may either re-advertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale, or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. A public notice shall be posted at the Village Hall, and published in the official newspaper as a Class I notice, at least 10 days prior to the sale. The posting of the notice shall be in the same form as the certified mail notice sent to the owner or lien holders of record. Upon sale of an abandoned vehicle, the Village shall supply the purchaser with a completed form designed by the Wisconsin Department of Motor Vehicles enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area but shall pay a storage fee as outlined in Section 8.10 for each day the vehicle remains in storage after the 2<sup>nd</sup> business day subsequent to the sale date. If the purchaser has not removed the vehicle within 10 days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list, upon payment of a fee as set out in Section 8.10. Payment made by defaulting purchaser shall be retained by the Village as liquidation damages.

5. Within 5 days after the sale or disposal of a vehicle as provided in subsection 1. or 2., the Village shall advise the Wisconsin Department of Motor Vehicles of the sale or disposition on a form supplied by the Department.

- C. NON-EXCLUSIVE REMEDY. The remedies provided at Section B shall be in addition to, and shall not be exclusive of, any and all other remedies of the Village and private persons.

#### **7.14 CHRONIC NUISANCE PREMISES**

- A. FINDINGS. The Village Board finds that any premises that has three (3) or more contacts with police for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the Village. The Village Board therefore directs the Directed Enforcement Officer, as provided in this section, to charge the owners or such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.
- B. DEFINITIONS. The following terms shall be defined as follows in this subchapter.
  1. “DEO” means the Directed Enforcement Officer or his or her designee.
  2. Officer means Village of Allouez Police Officer, Zoning Inspector, Building Inspector, Code & Safety Enforcement Coordinator or Fire Chief or his or her designee.
  3. Enforcement Action – Arrest, the issuance of a citation, or the issuance of a verbal or written warning.
  4. Nuisance Activity – Any of the follow activities, behaviors, or conduct whenever engaged in by premises owners, operators, occupants or persons associated with a premises occurring on premises.
    - a. An act of Harassment, as defined in §947.013, Wis. Stats.
    - b. Disorderly Conduct, as defined in §947.01, Wis. Stats.
    - c. Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.

- d. Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats.
- e. Prostitution, as defined in §944.30, Wis. Stats.
- f. Indecent exposure as defined in §944.20(1)(b), Wis. Stats.
- g. Keeping a place of prostitution as defined in s. 944.34, Wis. Stats.
- h. Theft, as defined in §943.20, Wis. Stats.
- i. Receiving Stolen Property, as defined in §943.34, Wis. Stats.
- j. Arson, as defined in §943.02, Wis. Stats.
- k. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
- l. Gambling, as defined in §945.02, Wis. Stats.
- m. Animal violations, as defined by Village of Allouez Municipal Code and WI statutes.
- n. Trespassing, to land as defined in §943.13 Wis. Stats. or criminal trespass to dwelling as defined in and §943.14, Wis. Stats.
- o. Weapons violations, as defined by Village of Allouez Municipal Code and WI statutes
- p. Noise violations, as defined by Village of Allouez Municipal Code.
- q. Misuse of emergency telephone numbers as defined in s.146.70, Wis. Stats.
- r. Any conspiracy to commit, as defined in §939.31, Wis. Stats., or attempt to commit, as defined in §939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in subdivisions 4. a. through r. above.

5. Owner. The owner of the premises and his or her agents.

6. Premises. An individual dwelling, unit or multi-family or an individual business premises and associated common areas.

7. Person Associated With means any person, who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

**7.15. NOTICE.** Whenever the DEO officer involved (police, inspection) determines that three or more nuisance activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period, the DEO officer shall notify the premises owner in writing. In reaching this determination, the DEO may or may not count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises. The notice shall be delivered pursuant to Section 7.08, Village of Allouez Municipal Code. At the discretion of the investigating official a citation may be issued to the homeowner or tenant for the violation of this ordinance to immediately answer the violation in Allouez Municipal Court. Lack of knowledge regarding activities on the premises is not a defense for violation of the ordinance. The code and safety enforcement coordinator has authority to contact and identify persons of a residence during an ordinance violation investigation and may issue a citation to the resident as well as the property owner for ordinance violations to include violations that occur on nuisance property.

**7.16 ABATEMENT PLAN (only for issues that are not an immediate danger to public health/safety).** Any owner receiving notice pursuant to Sec. 7.15 shall meet with the officer, or his/her designee, within 5 days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the owner shall submit to the responsible officer, or his/her designee, an abatement plan to end the nuisance activity on the property. The plan shall specify a name, address, and telephone number of a person living within 20 miles of the property in the event of further police action or inspection.

**7.17 ADDITIONAL NUISANCE ACTIVITY.** Whenever the officer determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Section 7.15, Village of Allouez Municipal Code, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the officer may calculate the cost of police response and

enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

**7.18 PENALTIES.**

- A. FIRST OFFENSE. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit not less than \$1 nor more than \$10,000.
  
- B. SUBSEQUENT OFFENSES. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within 24 months after committing a previous violation of this chapter shall forfeit not less than double the original citation nor more than \$10,000.