

## Chapter 18

### **HEALTH AND SANITATION\***

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\*Cross references: Animals, ch. 6; buildings and building regulations, ch. 10; floods, ch. 14; solid waste, ch. 42; utilities, ch. 54.

**Sec. 18-1. Rules and regulations; violations; penalties.**

The village board, acting as board of health, may make reasonable and general rules for the enforcement of the provisions of this chapter and the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the board shall be subject to section 1-27. (Code 1988, § 6-1-1)

**Sec. 18-2. Health nuisances.**

(a) *Definitions.* The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Health nuisance* means any source of filth or cause of sickness.

(b) *Duty to abate.* The board of health shall abate health nuisances pursuant to law. (Code 1988, § 6-1-2)

**Cross reference** – Nuisances, ch. 26.

**Sec. 18-3. Keeping animals and fowl; food handling establishments.**

(a) *Sanitary requirements.* All structures, pens, buildings, stables, coops or yards wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors and shall only be kept in properly zoned areas.

(b) *Animals upon food handling establishment premises.* No person shall take, or permit to remain, any dog, cat or other live animal on or upon any premises where food is sold, offered for sale or processed for consumption for the general public. (Code 1988, § 6-1-3)

**Cross reference** – Animals, ch. 6.

**Sec. 18-4. Deleterious substances.**

No person shall deposit, or cause to be deposited, in any public street or on any public ground or private property not his own any refuse, garbage, litter, waste material or liquid, or any other objectionable material or liquid. When any such material or liquid is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent it from becoming a public nuisance. (Code 1988, § 6-1-4)

**Sec. 18-5. Noxious weeds.**

(a) Annually on or before May 15, the village administrator shall publish a notice, as required by law, that every person is required, by law, to destroy all noxious weeds on lands in the village which such person owns, occupies or controls. A joint notice with other towns or municipalities may be utilized.

(b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the weed commissioner of the village shall give five days' written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing, to the effect that the weed commissioner, after the expiration of the five-day period, will proceed to destroy, or caused to be destroyed, all such weeds growing upon such lands, and the cost thereof will be assessed as a tax upon the lands upon which such weeds are located under the provisions of Wis. Stats. § 66.0407. If the owner or occupant shall further neglect to comply within such five-day period, then the weed commissioner shall destroy, or caused to be destroyed, such weeds, in the manner deemed to be the most economical method, and the expense thereof, shall be charged against such lands and be collected as a special tax on such lands.

(c) As provided for in Wis. Stats. § 66.0407, the village shall require that all noxious weeds be destroyed prior to the time in which such plants would mature to the bloom or flower state. The growth of noxious weeds in excess of eight inches in height from the ground surface shall be prohibited within the village corporate limits. Noxious weeds shall include any weeds, grass or similar plant growth which, if allowed to pollinate, would cause or produce hay fever in human beings or a skin rash through contact with the skin.

- (1) Noxious weeds, as defined in this section and section 18-7, shall include, but not be limited to, the following:
  - a. *Cirsium arvense* (Canada thistle).
  - b. *Ambrosia artemisiifolia* (common ragweed).
  - c. *Ambrosia trifida* (great ragweed).
  - d. *Euphorbia esula* (leafy spurge).
  - e. *Convolvulus arvensis* (creeping Jenny) (field bind weed).
  - f. *Tragopogon dubius* (goat's beard).
  - g. *Rhus radicans* (poison ivy).
  - h. *Cirsium vulgare* (bull thistle).
  - i. *Pastinaca sativa* (wild parsnip).
  - j. *Arctium minus* (burdock).
  - k. *Xanthium strumarium* (cocklebur).
  - l. *Amaranthus retroflexus* (pigweed).
  - m. *Chenopodium album* (common lambsquarter).
  - n. *Rumex crispus* (curled dock).
  - o. *Cannabis sativa* (hemp).
  - p. *Plantago lanceolata* (English plantain).
  - q. Ragweed.

- r. Thistles.
  - s. Smartweed.
  - t. Dandelions over ten inches in height.
  - u. Milkweed over ten inches in height.
  - v. Other rank vegetation.
- (2) Noxious grasses, as defined in this section and section 18-7, shall include, but not be limited to, the following:
- a. *Agrostia alba* (redtop).
  - b. *Dactylis glomerata* (orchard).
  - c. *Phelum pratensis* (Timothy).
  - d. *Poa pratensis* (Kentucky blue).
  - e. *Sorghum halpense* (Johnson).
  - f. *Setaria* (foxtail).
- (Code 1988, § 6-1-5)

**Sec. 18-6. Natural lawns regulated.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Natural lawn* includes common species of grass and wild flowers native to North America which are designed and purposely cultivated to exceed eight inches in height from the ground. Specifically excluded from the definition of natural lawns are the noxious grasses and weeds identified in section 18-5. The growth of a natural lawn in excess of eight inches in height from the ground surface shall be prohibited within the village corporate limits unless a natural lawn management plan is approved and a permit is issued by the village as set forth in this section. Natural lawns shall not contain litter or debris, nor harbor undesirable wildlife.

(b) *Natural lawn management plan.*

- (1) As used in this section, the term “natural lawn management plan” means a written plan relating to the management and maintenance of a lawn, which contains a legal description of the lawn upon which the planted grass will exceed eight inches in length, a statement of the intent and purpose for the lawn, a detailed description of the vegetation types, plants and plant succession involved, and the specific management and maintenance techniques to be employed.
- (2) Property owners who wish to plant and cultivate a natural lawn must submit their written plan and related information on the form provided by the village. For the purposes of this section, the term “property owner” includes the legal title holder and/or the beneficial owner of any such lot according to the most current village records. Natural lawn management plans shall only indicate

the planting and cultivating of natural lawns on property legally owned by the property owner. Applicants are strictly prohibited from developing a lawn on any village-owned property, including street rights-of-way. This shall include, at a minimum, property located between the sidewalk and the street or a strip not less than ten feet adjacent to the street where there is no sidewalk, whether the area is under public or private ownership. In addition, natural lawns shall not be permitted within ten feet of the abutting owner's property, unless such requirement is waived in writing by the abutting property owner on the side affected. Such waiver is to be affixed to the natural lawn management plan.

- (3) Any subsequent property owner who abuts an approved natural lawn may revoke the waiver, thereby requiring the owner of the natural lawn to remove the natural lawn that is located in the ten-foot section abutting the neighboring property owner. Such revocation shall be put in writing, and presented to the village administrator by the subsequent abutting property owner. Upon receiving the written request to revoke the original waiver, the village board shall contact the owner of the approved natural lawn and direct the owner to remove the natural lawn located in the ten-foot section abutting the neighboring property owner. The village board shall revise the approved natural lawn management plan accordingly. The owner of the approved natural lawn shall be required to remove the ten-foot section abutting the neighboring property owner within 20 days of receipt of the written notification from the village, provided the notification is received between May 1 and November 1. Property owners who receive notification from the village between November 1 and April 30 shall be required to remove the ten-foot section abutting the neighboring property owner no later than May 20 following receipt of the notification.
- (c) *Application process.*
- (1) Property owners interested in applying for permission to establish a natural lawn shall obtain and complete an application form, available from the village administrator. The completed application shall include a natural lawn management plan. Upon submitting a completed application, a nonrefundable filing fee as set by the village board from time to time and on file in the village offices will be assessed by the village. Upon receiving payment, copies of the completed application shall be mailed by the village to each of the owners of record, as listed in the office of the village assessor, who are owners of the property situated, wholly or in part, within 300 feet of the boundaries of the property for which the application is made. If, within 15 calendar days of mailing the copies of the complete application to the neighboring property owners, the village receives written objections from 51 percent or more of the neighboring property owners, the village administrator shall immediately deny the application. For the purposes of this section, the term "neighboring property owners" means all of the property owners who are located within 300 feet of the proposed natural lawn site.
  - (2) If the property owner's application is in full compliance with the natural lawn management plan requirements, and less than 51 percent of the neighboring property owners provide written objections, the village administrator shall issue permission for the installation of a natural lawn.
- (d) *Applications for appeal.* The property owner may appeal the village administrator's decision to

deny the natural lawn permit request to the village board at an open meeting. All applications for appeal shall be submitted within 15 calendar days of the notice of denial of the natural lawn management plan. The decision rendered by the village board shall be final and binding.

(e) *Safety precautions for natural grass areas.*

- (1) When, in the opinion of the fire chief, the presence of a natural lawn may constitute a fire or safety hazard due to weather and/or other conditions, the fire chief may order the cutting of natural lawns to a safe condition. As a condition of receiving approval of the natural lawn permit, the property owner shall be required to cut the natural lawn within three days of receiving written direction to do so from the fire chief.
- (2) Natural lawns shall not be removed through the process of burning, unless stated and approved as one of the management and maintenance techniques in the natural lawn management plan. The fire chief shall review all requests to burn the natural lawns, and shall determine if circumstances are correct and all applicable requirements have been fulfilled to ensure public safety. Burning of natural lawns shall be strictly prohibited, unless a written permit to burn is issued by the fire chief. The fire chief shall establish a written list of requirements for considering each request to burn natural lawns, thereby ensuring the public safety. In addition, the property owner requesting permission to burn natural lawn shall provide evidence of property damage and liability insurance, identifying the village as a party insured. A minimum amount of acceptable insurance shall be set by the village board from time to time and is on file in the village offices.

(f) *Revocation of approved natural lawn management plan permit.* Upon the recommendation of the weed commissioner, the village president shall have the authority to revoke an approved natural lawn management plan if the owner fails to maintain the natural lawn or comply with the provisions set forth in this chapter. Notice of intent to revoke an approved natural lawn management plan permit shall be appealable to the village board. All applications for appeal shall be submitted within 15 calendar days of receipt of the written notice of intent to revoke an approved natural lawn management plan. Failure to file an application for appeal within the 15 calendar days shall result in the revoking of the natural lawn management plan permit. All written applications for appeal filed with the 15 calendar day requirement shall be reviewed by the village board in an open meeting. The decision rendered by the village board shall be final and binding.

(g) *Public nuisance declared; abatement after notice.*

- (1) The growth of a natural lawn, as defined in this section, shall be considered a public nuisance, unless a natural lawn management plan has been filed and approved and a permit is issued by the village as set forth in this section. Violators shall be served with a notice of public nuisance, by certified mail, to the last known mailing address of the property owner.
- (2) If the person served with a notice of public nuisance violation does not abate the nuisance within ten days, the enforcement officer may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to, and paid by, such property owner. Notice of the bill for abatement of the public nuisance shall be mailed to the owner of the premises and shall be payable within ten calendar days from receipt thereof. Within 60 days after

such costs and expenses are incurred and remain unpaid, the village administrator shall enter the charges onto the tax roll as a special tax as provided by statute.

- (3) The failure of the village administrator to record such claim or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to place the village expense on the tax rolls for unpaid bills for abating the public nuisance as provided for in this section.
  - (h) *Violation; penalties.*
    - (1) Any person who does not abate the nuisance within the required time period, or who otherwise violates the provisions of this section, shall be subject to the general penalty in section 1-27.
    - (2) In addition to any penalties provided in this section for any violations of this section, the village may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit.
- (Code 1988, § 6-1-6)

### **Sec. 18-7. Lawn and grass length regulated.**

(a) *Purpose.* This section is adopted due to the unique nature of the problems associated with lawns, grasses and noxious weeds being allowed to grow to excessive lengths within the village.

(b) *Public nuisance declared.* The village board finds that lawns, grasses and noxious weeds which exceed eight inches in length on lots or parcels of land adversely affect the public health and safety because they tend to emit pollen and other discomforting bits of plants, constitute a fire hazard because debris can be hidden in the grass, interfere with the public convenience and adversely affect property values of other land within the village. For such reasons, any lawn, grass or weed which exceeds eight inches in length on a lot or other parcel of land is declared to be a public nuisance, except for property located in a designated floodplain and/or wetland area or where the lawn, grass or weed is part of a natural lawn approved pursuant to section 18-6.

(c) *Nuisances prohibited.* No person shall permit any public nuisance, as defined in subsection (b) of this section, to remain on any premises within the village which is owned or controlled by him.

(d) *Inspection.* The weed commissioner or his designee shall inspect, or cause to be inspected, all premises and places within the village to determine whether any public nuisance, as defined in subsection (b) of this section, exists.

(e) *Abatement of nuisance.*

- (1) If the weed commissioner shall determine with reasonable certainty that any public nuisance, as defined in subsection (b) of this section, exists, he shall immediately cause written notice to be served that the village proposes to have the grass or lawn of such lot cut so as to conform with this section and section 18-5.

- (2) The notice of the time and place at which the hearing will be held shall be served at least five days prior to the date of the hearing, and shall be mailed or served on the owner of the lot or

parcel of land, or, if he is not known and there is a tenant occupying the property, the notice shall be served on the tenant.

(f) *Due process hearing.* If the owner believes that his grasses or weeds are not a nuisance, he may request a hearing before the village board. The request for such hearing must be made in writing to the village administrator's office within the five-day period set forth in the weed commissioner's notice. Upon application for the hearing, the property owner must deposit a bond in the amount set by the village board from time to time and on file in the village offices. If a decision is rendered in the property owner's favor, the bond amount will be returned to the property owner. If the property owner fails to appear for the hearing, or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of the village personnel abating the nuisance, if necessary. When a hearing is requested by the owner of the property, a hearing before the village board shall be held within seven days from the date of the owner's request. The property in question will not be mowed by the village until such time as the hearing is held by the village board. At the hearing, the owner may appear in person or by his attorney, may present witnesses in his own behalf and may cross examine witnesses presented by the village, as well as subpoena witnesses for his own case. At the close of the hearing, the village board shall make its determination in writing, specifying its findings, facts and conclusions. If the village board determines that a public nuisance did exist, the village board shall order the weed commissioner to mow the property in question, unless the property has been mowed by the owner within 48 hours of the village board's decision. If the owner does not abate the nuisance within the described 48 hours, the weed commissioner shall cause the nuisance to be abated and the cost in excess of the forfeited fee assessed accordingly.

(g) *Village's option to abate nuisance.* If the owner, occupant or person in charge of the property shall fail to cut his lawn, grass or weeds as set forth in this section, then, and in such event, the village may elect to cut the lawn, grass or weeds as follows:

- (1) The written notice required in subsection (e) of this section shall inform the person of his failure to abate the nuisance within the prescribed time, the village shall abate the nuisance and the cost thereof shall be assessed to the property owner as a special charge.
- (2) The village shall cut, or cause to be cut, all grass and weeds from the person's property and shall charge the expense thereof at a rate established by resolution by the village board. The charges shall be set forth in a statement to the village administrator who, in turn, shall mail the statement to the owner, occupant or person in charge of the premises. If the statement is not paid in full within 30 days thereafter, the village administrator shall enter the charges in the tax roll as a special tax against the lot or parcel of land, and the charges shall be collected, in all respects, like other taxes upon real estate, or as provided under Wis. Stats. § 66.0717.

(Code 1988, § 6-1-7)

### **Sec. 18-8. Smoking regulated.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

*Educational facility* means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a



state agency or board.

*Inpatient health care facility* has the meaning provided under Wis. Stats. § 101.123(1)(b), except that such term includes community-based residential facilities, as defined under Wis. Stats. § 50.01(1).

*Office* means any area that serves as a place of work at which the principal activities consist of professional, clerical or administrative services.

*Person in charge* means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

*Public conveyance* means mass transit vehicles, as defined by Wis. Stats. § 340.01(28q), and school buses, as defined by Wis. Stats. § 340.01(56).

*Restaurant* means an establishment, as defined in Wis. Stats. § 101.123(1)(f), with a seating capacity of more than 50 persons.

*Retail establishment* means any store or shop in which retail sales are the principal business conducted, except a tavern operating under a "Class B" intoxicating liquor license or Class "B" fermented malt beverage license, and bowling alleys.

*Smoking* means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

(b) *Where prohibited.*

(1) Except as provided in subsection (c) of this section, no person may smoke in:

- a. Public conveyances.
- b. Educational facilities.
- c. Inpatient health care facilities.
- d. Indoor movie theaters.
- e. Offices.
- f. Passenger elevators.
- g. Restaurants.
- h. Retail establishments.
- i. Public waiting rooms.
- j. Any enclosed, indoor area of a state, county, city, village or town building.

- (2) The prohibitions set forth in subsection (b)(1) of this section apply only to enclosed, indoor areas.
- (c) *Exceptions.* The regulation of smoking as set forth in subsection (b) of this section does not apply to:
  - (1) Areas designated as smoking areas under in subsection (d) of this section.
  - (2) Offices occupied exclusively by smokers.
  - (3) Entire rooms or halls used for private functions, if the arrangements for the function are under the control of the sponsor of the function.
  - (4) Restaurants holding a “Class B” intoxicating liquor license or Class “B” fermented malt beverage license, if the sale of intoxicating liquors and/or fermented malt beverages accounts for more than 50 percent of the restaurant’s receipts.
  - (5) Offices that are privately owned and occupied.
  - (6) Any area of a facility used principally to manufacture or assemble goods, products or merchandise for sale.
  - (7) Prisons, secured correctional facilities, secured detention facilities, jails and lockup facilities.
- (d) *Smoking areas designated.*
  - (1) A person in charge or his agent may designate smoking areas in places where smoking is regulated under subsection (b) of this section, unless a fire marshal, law, ordinance or resolution prohibits smoking. Entire rooms and buildings may be designated as smoking areas.
  - (2) If an entire room is designated as smoking areas, the person in charge or his agent shall conspicuously post notice of the designation on or near all entrances to the room which are normally used by the public. If an entire building room is designated as smoking area, notice of the designation shall be on or near all entrances to the building which are normally used by the public, and posting of the notice of the designation on or near entrances to rooms within the building is not required.
  - (3) The person in charge or his agent shall utilize, if possible, existing physical barriers and ventilation systems when designating smoking areas. This subsection requires no new construction of physical barriers or ventilation systems in any buildings.
  - (4) This subsection (d) requires the posting of signs only in areas where smoking is permitted.
- (e) *Responsibilities.* The person in charge or his agent shall:
  - (1) Post signs identifying designated smoking areas; and

- (2) Arrange seating to accommodate nonsmokers, if smoking areas are adjacent to nonsmoking areas.
- (f) *Violations; penalties.*
  - (1) Any person in charge, or his agent, who willfully fails to comply with subsection (e) of this section shall forfeit not more than \$25.00.
  - (2) Wis. Stats. §§ 101.02(13)(a) and 939.61(1) do not apply to this section.
  - (3) A violation of this section does not constitute negligence as a matter of law.
- (g) *Injunction.* State or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.  
(Code 1988, § 6-1-8)  
**State law reference** – Smoking generally, Wis. Stats. § 101.123.

#### **Sec. 18-9. Spilled or accidentally discharged wastes.**

(a) *Cleanup required.* All persons delivering, hauling, disposing, storing, discharging or otherwise handling potentially polluting substances, solid or liquid, such as, but not limited to, fuel, oil, gasoline, solvents, industrial liquids or fluids, milk, grease trap and septic tank wastes, sewage sludge, sanitary sewer wastes, storm sewer catchbasin wastes, oil or petroleum wastes, shall immediately clean up any such spilled material to prevent its becoming a hazard to health or safety or directly or indirectly causing pollution to the lakes and streams under the jurisdiction of the village.

(b) *Notification.* Spills or accidental releases of hazardous materials or pollutants at a site or of a quantity or nature that cannot adequately be cleaned up by the responsible parties shall be immediately reported to the village administrator so that assistance can be given by the proper agency.

(c) *Financial liability.* The parties responsible for the release, escape or discharge of wastes shall be held financially liable for the cost of any cleanup or attempted cleanup deemed necessary or desirable and undertaken by the village or its designated agent in an effort to minimize the polluttional effects of the discharged wastes.  
(Code 1988, § 6-2-1)

#### **Sec. 18-10. Storage of polluting substances.**

It shall be unlawful for any person to store any potentially polluting substances, unless such substances are stored in such a manner as to securely prevent them from escaping onto the ground surface and/or into any street, sewer, ditch or drainageway, lake or stream within the jurisdiction of the village.  
(Code 1988, § 6-2-2)

#### **Sec. 18-11. Outdoor solid fuel heating devices.**

- (a) *Defined.* An outdoor device, structure, building or apparatus which supplies direct or indirect

heat from the burning of solid fuel, including, but not limited to wood, to another building

(b) *Use prohibited.* Outdoor solid fuel heating devices are prohibited and shall not be installed or operated within the Village of Spring Valley.