

## Chapter 26

### NUISANCES\*

- Sec. 26-1. Definitions.
- Sec. 26-2. Prohibited.
- Sec. 26-3. Affecting health.
- Sec. 26-4. Offending morals and decency.
- Sec. 26-5. Affecting peace and safety.
- Sec. 26-6. Abatement.
- Sec. 26-7. Cost of abatement.

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\***Cross references** – Barking dogs and crying cats declared a public nuisance, § 6-12; health nuisances, § 18-2; garbage accumulation declared a nuisance, § 42-8.



**Sec. 26-1. Definitions.**

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

*Public nuisance* means a thing, act, occupation, condition or use of property which shall continue for such a length of time so as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way, render the public insecure in life or the use of property;
- (3) Greatly offend the public morals or decency;
- (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 way or the use of public property.

(Code 1988, § 9-7-2)

**Cross reference** – Definitions generally, § 1-2.

**Sec. 26-2. Prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the village.

(Code 1988, § 9-7-1)

**Sec. 26-3. Affecting health.**

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of a public nuisance in section 26-1:

- (1) *Unwholesome food and drinks.* All decayed, harmfully adulterated or unwholesome food or drink sold, or offered for sale, to the public.
- (2) *Unburied carcasses.* Carcasses of animals, birds or fowl not intended for human consumption, or foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (3) *Breeding places for vermin, etc.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (4) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) *Garbage cans.* Garbage cans which are not flytight.

- (6) *Noxious weeds.* All noxious weeds and other rank growth of vegetation.
  - (7) *Water pollution.* The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
  - (8) *Noxious odors, etc.* Any use of property, substances or things within the village, or within four miles thereof, or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village.
  - (9) *Street pollution.* Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.
  - (10) *Animals at large.* All animals running at large.
  - (11) *Accumulations of refuse.* Accumulations of old cans, lumber, elm firewood and other refuse.
  - (12) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the village limits, or within one mile therefrom, in such quantities so as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (Code 1988, § 9-7-3)

#### **Sec. 26-4. Offending morals and decency.**

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of a public nuisance in section 26-1:

- (1) *Disorderly houses, etc.* All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) *Gambling devices.* All gambling devices and slot machines.
- (3) *Unlicensed sales of intoxicating liquor and beer.* All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided in chapter 22, article II.
- (4) *Continuous violation of ordinances.* Any place or premises within the village where ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) *Illegal drinking and drugs.* Any place or premises resorted to for the purpose of drinking

intoxicating liquor, fermented malt beverages or illegal drugs in violation of law or ordinance.  
(Code 1988, § 9-7-4)

**Sec. 26-5. Affecting peace and safety.**

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of a public nuisance in section 26-1:

- (1) *Signs, billboards, etc.* All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, situated or constructed to endanger the public safety.
- (2) *Illegal buildings.* All buildings erected, repaired or altered in violation of the provisions of ordinances relating to materials and the manner of construction of buildings and structures within the village.
- (3) *Unauthorized traffic signs.* All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing, which purport to be or may be mistaken as an official traffic control device, railroad sign or signal, or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (4) *Obstruction of intersections.* All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (5) *Tree limbs.* All tree limbs which project less than ten feet above the surface of a public sidewalk, and all limbs which project less than 14 feet above the surface of a public street.
- (6) *Dangerous trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (7) *Fireworks.* All use or display of fireworks, except as provided by law and ordinance.
- (8) *Dilapidated buildings and structures.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (9) *Wires over streets, etc..* All wires strung less than 15 feet above streets, alleys or public grounds.
- (10) *Noisy animals and fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the village.
- (11) *Obstruction of streets; excavations.* All obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under streets, alleys, sidewalks or crosswalks, except as permitted by ordinance, or which, although made in accordance with ordinances, are kept or maintained for an

unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.

- (12) *Open and unguarded excavations.* All open and unguarded pits, wells, excavations or unused basements which are accessible from any public street, alley or sidewalk.
  - (13) *Abandoned refrigerators.* All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
  - (14) *Flammable liquids.* Repeated or continuous violations of ordinances or laws relating to the storage of flammable liquids.
  - (15) *Unremoved snow and ice.* All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.
- (Code 1988, § 9-7-5)

#### **Sec. 26-6. Abatement.**

(a) *Enforcement.* The chief of police, chief of the fire department, director of public works and village administrator 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 ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance, unless the officer shall have inspected, or caused to be inspected, the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) *Summary abatement.* If the inspecting officer shall determine that a public nuisance exists within the village, and that there is great and immediate danger to the public health, safety, peace, morals or decency, the village president, upon the recommendation of the appropriate department head, may direct the proper officer to cause the public nuisance to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) *Notice.* If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the nuisance within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisance to be removed as provided in subsection (b) of this section.

(d) *Other methods not excluded.* Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the village or its officials in accordance with law.

(Code 1988, § 9-7-6)

#### **Sec. 26-7. Cost of abatement.**

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the

nuisance, and such cost shall be assessed against the real estate as a special charge.  
(Code 1988, § 9-7-7)





Chapters 27 – 29

**RESERVED**