

Chapter 19

PUBLIC NUISANCES

- Sec. 19-1. Definition.
- Sec. 19-2. Penalty.
- Sec. 19-3. Public nuisances prohibited.
- Sec. 19-4. Public nuisances affecting health.
- Sec. 19-5. Public nuisances offending morals and decency.
- Sec. 19-6. Public nuisances affecting peace and safety.
- Sec. 19-7. Abatement procedures.
- Sec. 19-8. Collection of cost of abatement.

Sec. 19-1. Definition.

A public nuisance is a thing, act, occupation, condition or use of property which continues for such length of time 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 in 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.

Sec. 19-2. Penalty.

Any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance shall be subject to a penalty as provided in 23.04, Municipal Code of the Village of Deerfield.

Sec. 19-3. Public nuisance prohibited.

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

Sec. 19-4. Public nuisances 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 section 19-1, Municipal Code of the Village of Deerfield:

1. *Adulterated food.* All decayed, 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 food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
3. *Breeding places for insects or vermin.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin can breed.
4. *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.
5. *Privy vaults and garbage cans.* Privy vaults and garbage cans which are not flytight.
6. *Noxious weeds.* All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height not to exceed one foot. The

village may cause all weeds and grass to be cut and removed and brush to be removed and the costs thereof charged to the property under Wis. Stats. 66.0627.

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 industries.* Any use of property, substances or things within the village emitting or causing any foul, offensive, noisome, 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. The village board may direct the location, regulate or prohibit nauseous, offensive or unwholesome industries within the village or four miles therefrom as granted by Wis. Stats. 66.0415, which requires abatement actions for violation of ordinances governing offensive industries to be brought under Wis. Stats. Ch. 823. Reference to this jurisdiction is not included in this section because in cases involving outside industries the governing body shall follow the procedures of Wis. Stats. Ch. 823, and may not employ its summary abatement power.
9. *Discharge of noxious substance onto street or other public place.* Any use of property which causes any noxious, nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.
10. *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the village or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the village. Authority to control emission of dense smoke into open air one mile from the village limits is granted to the village board by statute.
11. *Abandoned wells.* All abandoned wells not securely covered or secured from public use.

Sec. 19-5. Public nuisances 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 section 19-1, Municipal Code of the Village of Deerfield:

1. *Disorderly houses.* 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, drugs and/or contraband or gambling.
2. *Gambling devices.* All gambling devices and slot machines.

3. *Unlicensed sale of 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 by ordinance.
4. *Continuous violation of village ordinances.* Any place or premises within the village where ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
5. *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of law or ordinance.

Sec. 19-6. Public nuisance 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 section 19-1, Municipal Code of the Village of Deerfield:

1. *Dangerous signs, billboards, etc.* 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. *Illegal buildings.* All buildings erected, repaired or altered in violation of ordinances relating to materials and 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 official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere 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. *Low-hanging tree limbs.* All limbs of trees which project over and less than 14 feet above any public sidewalk or street or less than ten feet above any other public place.
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.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.

9. *Low-hanging wires and cables.* All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
10. *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or intrusion on the premises of others, greatly annoys or disturbs a neighborhood or any considerable number of persons within the village.
11. *Obstructions of streets; excavations.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by ordinance but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
12. *Unlawful assemblies.* Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
13. *Storage of flammable liquids.* Repeated or continuous violations of ordinance or law relating to the storage of flammable liquids.

Sec. 19-7. Abatement procedures.

- (a) *Enforcement officers; inspections.* The chief of police, the fire chief, the building inspector and the health officer shall enforce those 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 has 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. Whenever practicable, the inspecting officer shall cause photographs to be made of premises to be filed with the clerk-treasurer.
- (b) *Summary abatement.* If the inspecting officer determines 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 president may direct the proper officer to cause the same to be abated and charge the costs thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (c) *Abatement after notice.* If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not 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 same within five days. If such nuisance is not removed within five 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.

(e) *Court order.* Except when necessary under subsection (b) of this section, an officer hereunder shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

Sec. 19-8. Collection of cost of abatement.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the costs of 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 if notice to abate the nuisance has been given to the owner, such costs shall be assessed against the real estate as a special charge.