

# Village Of Ashwaubenon

## Municipal Code Book

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### Article 11-1

# Municipal Code Book

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# Chapter 11 - Nuisances and Environment

## Article 1 - Public Nuisances

### 11-1-19 Definitions

The following words, terms and phrases, when used in this article, 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 continues for such length of time as to:

- (A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (B) In any way render the public insecure in life or in the use of property;
- (C) Greatly offend the public morals or decency;
- (D) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water, other public way or the use of public property.

(Code 2006, § 10.02)

### 11-1-20 Prohibited

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

(Code 2006, § 10.01)

### 11-1-21 Public Nuisances Affecting Public 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 nuisances within the definition of this chapter:

- (A) *Adulterated food or drink.* All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (B) *Unburied Carcasses.* Carcasses of animals, bird, 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.
- (C) *Breeding Places for Insects or Vermin.* Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.

- (D) *Standing Water.* Standing water at any point on any property within the village, except water impounded on farm land for agricultural purposes.
- (E) *Privy Vaults and Garbage Cans.* Privy vaults and garbage cans which are not fly-tight.
- (F) *Noxious Weeds, Grass and Vegetation.*
  - (1) *Purpose.* It is the purpose of this section to prohibit the uncontrolled growth of vegetation and to control noxious weeds, while permitting the planting and maintenance of planned natural landscaping that add diversity and richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not managed can decrease the value of nearby properties and threaten the public health and safety. It is also in the public's interests to encourage diverse landscaping treatments, particularly those that encourage the preservation, restoration, and management of native plant communities which can be economical, low maintenance and effective in soil and water conservation. The village enacts this section to balance these competing interests.

(2) *Definitions.*

*Destroy* means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to bloom or flower stage.

*Garden* means a cultivated area dedicated to growing vegetables, fruits, annual and perennial plants, ornamental grasses and ground cover in a well-defined location.

*Native plants* means those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants) that are native to or naturalized to the State of Wisconsin. Native plants do not include weeds.

*Noxious weeds* means any plant listed under Wis. Stats. §§ 23.235(1)(a) or 66.0407(1)(b), and shall also include arctium spp. (burdock), cirsium and carduus spp. (thistle), ambrosia spp. (ragweed), alliaria petiolata (garlic mustard), plantago lanceolata (buckhorn), and poison ivy.

*Ornamental grasses and groundcovers* means grasses and groundcovers not indigenous to Wisconsin. Ornamental grasses do not include turf grasses and weeds.

*Planned natural landscaping* means a planned, intentional and maintained planting of native plants, ornamental grasses and groundcovers, rain gardens, shrubs and trees. Planned natural landscaping does not include any species of turf grasses and is not intended to allow a property owner to ignore lawn care duties. Planned natural landscaping does not include gardens.

*Rain garden* means a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of storm water and accompanying pollutants from entering streams, rivers and lakes.

*Turf grasses* means grasses commonly used in regularly cut lawns or play areas including bluegrass, fescue or rye grass blends or any other similar grasses.

(3) *Control of noxious weeds.*

- (a) Any undeveloped parcel one acre or larger in size shall destroy noxious weeds and cut long grass and vegetation to six inches in height within the right-of-way and within 20 feet of any abutting developed property. The remaining property shall be maintained to a height of 12 inches or less.
- (b) Any parcel with improvements upon it or a parcel less than one acre in size shall destroy noxious weeds and cut and maintain long grass and vegetation to a height of six inches or less.
- (c) This section shall not apply to:
  - (i) Gardens,
  - (ii) Plants located on agricultural land,
  - (iii) Plants located on shoreland within 35 feet of the ordinary high-water mark,

- (iv) Plants located within environmentally sensitive areas such as steep slopes, drainage ways, wetlands, and protective buffer areas, or
  - (v) Planned natural landscaping that is wholly contained within the parcel on which it is planted and maintained. The cost of destroying the weeds shall be charged and assessed in the manner provided by Wis. Stat. § 66.0517(3)(b)1.
- (4) *Enforcement.*
- (a) *Abatement.* Any property owner in violation of this section shall be provided written notice by the director of public works or his/her designee by mailing to the property owner or by posting written notice on the door of the property in violation. The written notice shall request compliance within 48 hours of mailing or posting of the notice. If such violation is not corrected within 48 hours, the village will authorize and conduct action to bring the property into compliance and bill the property owner for such efforts under Wis. Stat. § 66.0627. If any property owner receives notice under this section on three separate occasions, no further notices will be required for further violations in the calendar year. The village shall bring the property into compliance and bill the property for each violation thereafter.
  - (b) *Citation.* The director of public works or his/her designee may issue a citation for each violation of this section in an amount up to \$500.00. State law reference—Special charges, Wis. Stat. § 66.0627.
- (G) *Animals.* All animals running at large.
- (H) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensitiveness or to threaten or cause substantial injury to property in the village.
- (I) *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.
- (J) *Noxious odors, etc.* 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 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.
- (K) *Street pollution.* Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the village.
- (L) *Storage of tallow.* The construction and operation of a tank or tanks for the storage of tallow in the village whereby nauseous, offensive, or unwholesome odors are allowed to be emitted.

(Code 2006, § 10.03; Ord. No. O6-5-06, § 1, 6-27-2006; Ord. No. O6-2-13, § 1, 6-25-2013; Ord. No. O4-1-14, § 1, 4-22-2014) State law reference— Special charges, Wis. Stats. § 66.0627.

### 11-1-22 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 provided in section 11-19:

- (A) *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 conduct or gambling.
- (B) *Gambling devices.* All gambling devices and slot machines.
- (C) *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 for by the ordinances of the village.
- (D) *Continuous violation of village ordinances.* Any place or premises within the village where village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (E) *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of state laws.
- (F) *Obscene material or performances.* Any violation of Chapter 9, Section 9-25 and Chapter 6, Article VIII.

(Code 2006, § 10.04; Ord. No. 4-3-86, 4-22-1986)

### 11-1-23 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, health or safety coming within the definition provided in section 11-19:

- (A) *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.
- (B) *Illegal buildings.* All buildings erected, repaired or altered in violation of village ordinances relating to materials and manner of construction of buildings and structures within the village.
- (C) *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, 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.

- (D) *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.
- (E) *Low-hanging tree limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.
- (F) *Dangerous trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (G) *Fireworks.* All use or display of fireworks except as provided by state laws and village ordinances.
- (H) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use or habitation.
- (I) *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.
- (J) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the village.
- (K) *Obstructions or excavations of streets, alleys, etc.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the village 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.
- (L) *Unlawful assemblies.* Any unauthorized or unlawful use of a public street, alley or sidewalk or of property abutting on a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (M) *Blighted buildings and premises.* All blighted buildings and premises subject to the following:
  - (1) Premises existing within the village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences, and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the village.
  - (2) The blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection and other public services; or the conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

- (3) Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and this shall be fostered and encouraged by this article. It is essential to the public interest that this article be liberally construed to accomplish the purposes of this Section.

(Code 2006, § 10.05)

#### **11-1-24 Abatement**

- (A) *Enforcement.* The chief of public safety, village forester, building inspector and health officer or their designees 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.
- (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 village president may direct the proper officer to cause the same 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) *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, they shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within 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 Article shall be construed as prohibiting the abatement of public nuisances by the village or its officials in accordance with the laws of the state.
- (E) *Court Order.* Except when necessary under subsection (b) of this section, an officer 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. If such permission is denied, such officer shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

(Code 2006, § 10.10; Ord. No. O5-2-96, 5-28-1996)

#### **11-1-25 Cost of Abatement**

In addition to any other penalty imposed by this Code 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 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.

(Code 2006, § 10.11) State law reference— Special charges, Wis. Stats. § 66.0627.

#### **11-1-26 Chronic Nuisance Premises**

- (A) *Findings.* The village board finds that any premises that has generated three or more calls for police service, building inspection or the health department 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 chief of public safety, as provided in this section, to charge the owners of 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 provision.
- (1) *Building Inspection Department Response.* The village building inspector went to the premises for an inspection at the premises and, as a result thereof, a citation is issued for a violation of the building, housing or zoning code.
  - (2) *Chief.* The chief of public safety or the chief's written designee.
  - (3) *Enforcement action.* Arrest, the issuance of a citation, or the issuance of a written or verbal warning.
  - (4) *Health Department Response.* A member of the county health department went to the premises for an inspection at the premises and as a result thereof, a citation is issued for a violation of any provision of the state statutes or administrative code that the health department is responsible for enforcing.
  - (5) *Nuisance activity.* Any of the following activities, behaviors, or conduct occurring on a 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 offenses, as defined in § 944.30 or § 944.34, Wis. Stats.
    - (f) Littering, as defined in section 9-10, Ashwaubenon Municipal Code.
    - (g) Theft, as defined in § 943.20, Wis. Stats.
    - (h) Receiving stolen property, as defined in § 943.34, Wis. Stats.
    - (i) Arson, as defined in § 943.02, Wis. Stats.

- (j) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in ch. 961, Wis. Stats.
- (k) Gambling, as defined in § 945.02, Wis. Stats.
- (l) Animal violations, as defined in Chapter 4, Ashwaubenon Municipal Code.
- (m) Trespass to land, as defined as §§ 943.13 and 943.14, Wis. Stats.
- (n) Weapons violations as defined in section 9-02, Ashwaubenon Municipal Code.
- (o) Noise violations as defined in section 9-06, Ashwaubenon Municipal Code.
- (p) Violation of curfew for minors, as defined in section 9-15, Ashwaubenon Municipal Code.
- (q) Loitering, as defined in sections 9-07 and 9-15, Ashwaubenon Municipal Code.
- (r) Truancy, as defined in section 9-29, Ashwaubenon Municipal Code.
- (s) Alcohol violations, as defined in Chapter 3, Ashwaubenon Municipal Code and § 125.07, Wis. Stats.
- (t) Obstructing or resisting an officer, as defined in § 946.41, Wis. Stats.
- (u) Misuse of emergency telephone numbers, as defined in § 941.35, Wis. Stats.
- (v) Any act of being party to a crime, as defined in § 939.05, Wis. Stats., any of the activities in paragraphs a.—l., above.
- (w) 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 in paragraphs a.—m., above.
- (x) The execution of arrest or search warrants at a particular location.
- (y) Village of Ashwaubenon inspection-related calls where the public safety department responds.
- (z) Village of Ashwaubenon building inspection related calls where the public safety department responds or any building inspection department response.
- (aa) Brown County Health Officer related calls where the public safety department responds or any health department response.
- (6) *Owner.* The owner of the premises or the owner's agent who has been given written authority by the owner to enter into binding agreements concerning the nuisance premises.

- (7) *Premises.* An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.
- (C) *Notice.* Whenever the chief determines that the public safety department, building inspection department, or the health department has responded to three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The chief may also consider whether there has been an effective change in ownership of the premises in calculating occurrences of nuisance activity. 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, and a notice as to the appeal rights of the owner. The notice shall be delivered as set forth below.
- (D) *Notice procedure.* Notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the records of the village assessor.
- (E) *Abatement plan.* Any owner receiving such notice as set forth above shall meet with the chief, or his/her designee within five days of receipt of such notice. The parties shall review the problems occurring at the property. Within ten days of this meeting, the owner, chief and property tenant, shall meet and discuss an abatement plan, prepared by the property owner, to address and eliminate the nuisance activity on the property. If the tenant is unable or unwilling to meet on such plan, the chief and property owner shall nonetheless meet to discuss such abatement plan. The chief shall provide a written copy of the plan to the tenant. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.
- (F) *Additional nuisance activity.* Whenever the chief determines that additional nuisance activity has occurred at a premises for which notice has been issued as set forth above, 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 chief 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.
- (G) *Appeal.* Appeal of the determination of the chief of public safety that the property is a chronic nuisance property, may be submitted to the village board within ten days of notice. Chapter 68, Wis. Stats., shall not apply to such an appeal.
- (H) *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 \$1.00 or more than \$1,000.00.

- (1) *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 \$200.00 nor more than \$2,000.00.

(Ord. No. O8-2-16, 8-23-2016, Ord. No. O5-1-09, § 1, 6-9-2009)