

Chapter 186 NUISANCES

ARTICLE I Public Health Nuisances

- § 186-1. Rules and regulations.
- § 186-2. Abatement of health nuisances.
- § 186-3. Keeping of livestock.
- § 186-4. Deposit of deleterious substances prohibited.

ARTICLE II General Nuisances

- § 186-5. Public nuisances prohibited.

- § 186-6. Public nuisance defined.
- § 186-7. Public nuisances affecting health.
- § 186-8. Public nuisances offending morals and decency.
- § 186-9. Public nuisances affecting peace and safety.
- § 186-10. Abatement of public nuisances.
- § 186-11. Cost of abatement.
- § 186-12. Enforcement; violations and penalties.
- § 186-13. Penalty; attempt; parties to acts.

[HISTORY: Adopted by the Village Board of the Village of Iola as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

- | | |
|---|--------------------------------------|
| Alcoholic beverages — See Ch. 77. | Littering — See Ch. 164. |
| Animals — See Ch. 85. | Noise — See Ch. 180. |
| Brush, grass and weeds — See Ch. 94. | Obscene material — See Ch. 191. |
| Building construction — See Ch. 97. | Pollution — See Ch. 205. |
| Fermented malt beverages and intoxicating liquor — See Ch. 134. | Streets and sidewalks — See Ch. 233. |
| Fireworks — See Ch. 148. | Trees and shrubs — See Ch. 240. |

ARTICLE I Public Health Nuisances

[Adopted 2-12-1996 as Title 6, Ch. 1,
Secs. 6-1-1 through 6-1-4, of the 1996 Code]

§ 186-1. Rules and regulations.

The Village Board, acting as Board of Health, may make reasonable and general rules for the enforcement of the provisions of this article and for 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 the general penalty provided for in this Code.

§ 186-2. Abatement of health nuisances.

- A. Defined. A health nuisance is any source of filth or cause of sickness.
- B. Duty to abate. The Board of Health shall abate health nuisances pursuant to Sec. 254.59, Wis. Stats., which is adopted by reference and made a part of this section.¹

§ 186-3. Keeping of livestock.

- 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 a properly zoned area.
- B. Animals excluded from food-handling establishments. 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 by the general public.

§ 186-4. Deposit of deleterious substances prohibited.

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

ARTICLE II
General Nuisances
[Adopted 2-12-1996 as Title 9,
Ch. 6, and Sec. 9-1-2, of the 1996 Code]

§ 186-5. Public nuisances prohibited.

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

§ 186-6. Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue 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;

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- D. 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.

§ 186-7. Public nuisances affecting health.²

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:

ACCUMULATIONS OF REFUSE — Accumulations of old cans, lumber, elm firewood and other refuse.

ADULTERATED FOOD — All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

AIR POLLUTION — The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

ANIMALS AT LARGE — All animals running at large.

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.

GARBAGE CANS — Garbage cans which are not fly-tight.

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.

NOXIOUS WEEDS — All noxious weeds and other rank growth of vegetation.

STAGNANT WATER — All stagnant water in which mosquitoes, flies or other insects can multiply.

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.

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.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

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.

§ 186-8. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are hereby 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 § 186-6:

- 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 intercourse or gambling.
- B. Gambling devices. All gambling devices and slot machines, except as permitted by state law.
- 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 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 the laws of the State of Wisconsin or ordinances of the village.

§ 186-9. 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 coming within the definition of § 186-6:

- A. Signs, billboards, etc. All signs and 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 the provisions of the ordinances of the village 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 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.

- 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. Tree limbs. All limbs of trees which project over a public sidewalk less than 10 feet above the surface thereof and all limbs which project over a public street less than 14 feet above the surface thereof.
- 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 the laws of the State of Wisconsin and ordinances of the village.
- 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.
- I. Wires over streets. All wires 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, shall greatly annoy or disturb a neighborhood or any considerable number of persons within the village.
- K. Obstructions of streets; excavations. 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 or 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. Open excavations. All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- M. 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.
- N. Flammable liquids. Repeated or continuous violations of the ordinances of the village or laws of the state relating to the storage of flammable liquids.
- O. Unremoved snow. All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

§ 186-10. Abatement of public nuisances.

A. Summary abatement.

- (1) Notice to owner. If the inspecting officer determines that a public nuisance exists within the village and that there is a danger of public health, safety, peace, morals or decency, notice may be served by the inspecting officer or an authorized deputy on the person causing, maintaining or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted; and

a copy of such notice shall be posted on the premises. Such notice shall direct the person causing, maintaining or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not less than 24 hours or greater than seven days and shall state that unless such 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, as the case may be.

- (2) Abatement by village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.
- B. Abatement by court action. If the inspecting officer determines 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, the inspector or sanitarian shall file a written report of such findings with the Village President who, upon direction of the Village Board, shall cause an action to abate such nuisance to be commenced in the name of the village in Circuit Court in accordance with the provisions of Chapter 823, Wis. Stats.
- C. Court order. Except where necessary under Subsection A, no officer hereunder shall 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.
- 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 of Wisconsin.

§ 186-11. Cost of abatement.

In addition to any other penalty imposed by this article 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, such cost shall be assessed against the real estate as a special charge.

§ 186-12. Enforcement; violations and penalties.

- A. Enforcement. The Chief of Police, Fire Chief, Director of Public Works and Building Inspector shall enforce those provisions of this article 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 § 186-10 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.
- B. General penalty. Any person who shall violate any provision of this article shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-17.

§ 186-13. Penalty; attempt; parties to acts.

- A. **Penalty.** In addition to the general penalty provisions of this Code in Chapter 1, General Provisions, § 1-17, or any other penalty imposed for violation of any section of this article, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates § 201-11 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this article to the District Attorney's office in the interest of justice.
- B. **Attempt.**
- (1) Whoever attempts to commit an act prohibited by this article of the Code of Ordinances of the Village of Iola may be required to forfeit amounts not to exceed ½ the maximum penalty for the completed act.
 - (2) An attempt to commit an act prohibited by the ordinances in this Code requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he or she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- C. **Parties to acts prohibited in this article.**
- (1) Whoever is concerned in the commission of an act prohibited by this article of this Code of Ordinances is a principal and may be charged with and convicted of the commission of said act although he or she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
 - (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
 - (a) Directly commits the act; or
 - (b) Intentionally aids and abets the commission of it; or
 - (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

