

Village of Menomonee Falls Ordinance No. 732-O-18

**AN ORDINANCE CREATING CHAPTER 71 [PROPERTY OFFENSES]
OF THE MUNICIPAL CODE OF THE VILLAGE OF MENOMONEE FALLS
RELATING TO PUBLIC NUISANCE AND PROPERTY MAINTENANCE**

WHEREAS, it is a lawful purpose of the Board of Trustees of the Village of Menomonee Falls to enact regulatory ordinances protecting and promoting the general welfare, health and safety of its citizens; and

WHEREAS, Wisconsin State Statute § 61.34(1) provides that except as otherwise provided by law, the Village Board shall have the management and control of the Village property, finances, highways, streets, navigable waters, and the public service, and shall have power to act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment, and other necessary or convenient means; and that the powers thereby conferred shall be in addition to all other grants and shall be limited only by express language; and

WHEREAS, Wisconsin State Statute § 823.01 and Wisconsin case law authorizes villages to regulate and bring actions related to the abatement of public nuisances; and

WHEREAS, Article II [Public Nuisances] of Chapter 38 [Environment] of the Municipal Code of the Village of Menomonee Falls currently regulates the existence of public nuisances in the Village; and

WHEREAS, Article VII [Property Maintenance Code] of Chapter 18 [Buildings and Building Regulations] of the Municipal Code of the Village of Menomonee Falls currently regulates the standard by which property must be maintained in the Village; and

WHEREAS, upon recommendation by staff, the Board of Trustees concludes it would be in the best interest of the Village to create Chapter 71 [Property Offenses] to regulate both the existence of public nuisances in the Village and the standard by which property shall be maintained; and

WHEREAS, it is therefore deemed to be in the best interests of the Village of Menomonee Falls that the Municipal Code of the Village of Menomonee Falls be further modified and amended in the manner hereinafter more particularly set forth;

NOW, THEREFORE, the Board of Trustees of the Village of Menomonee Falls do hereby ordain as follows:

Section 1. Article II [Public Nuisances] of Chapter 38 [Environment] of the Municipal Code of the Village of Menomonee Falls is hereby repealed.

Section 2. Article VII [Property Maintenance Code] of Chapter 18 [Buildings and Building Regulations] of the Municipal Code of the Village of Menomonee Falls is hereby repealed.

Section 3. Subsection (5) of Section 54-24 [Issuance of municipal citations.] of Article II [Police Department] of Chapter 54 [Law Enforcement] of the Municipal Code of the Village of Menomonee Falls is hereby repealed and replaced with the following double-underlined language:

(5) Article I, Public Nuisances, of Chapter 71, Property Offenses.

Section 4. Subsection (c) of Section 22-260 [Violations] of Division 2 [Permit] of Article V [Regulation of Newspaper Distribution Boxes] of Chapter 22 [Businesses] of the Municipal Code of the Village of Menomonee Falls shall be amended to remove the following struck out language:

(c) *Emergency removal.* Upon determination by the director of public works or the director designee, that a newspaper distribution box has been installed, used, or maintained in violation of the provisions of this section, and such conditions constitute a great and immediate danger to the public health and safety the same shall be considered a public nuisance ~~and shall be abated as such pursuant to section 38-41 et seq.~~

Section 5. Subsection (a) of Section 42-38 [Environment] of Article 1 [In General] of Chapter 42 [Fees] of the Municipal Code of the Village of Menomonee Falls is hereby repealed.

Section 6. Subsection (a) of Section 82-83 [Types of containers] of Division 2 [Containers and Precollection Practices] of Article III [Disposal] of Chapter 82 [Solid Waste] of the Municipal Code of the Village of Menomonee Falls shall be amended to add the double underlined language below:

(a) One- or two-family dwellings. All containers for storage of all refuse for one-family or two-family dwellings shall be metal, rigid plastic or rubber, be watertight and have suitable handles. Except when filling or emptying, all containers shall be kept closed with a tight-fitting cover, shall be verminproof and flyproof, shall be kept in a sanitary condition, and shall be kept in a location not visible from the street or in a suitable enclosure. Use of plastic garbage bags for storage is acceptable only when stored inside a refuse container permitted by this section. A container shall not exceed 30 gallons in size and shall not contain more than 80 pounds in weight.

Section 7. Chapter 71 [Property Offenses] of the Municipal Code of the Village of Menomonee Falls is hereby created as set forth in Exhibit A, which is attached.

Section 8. Except as specifically modified and amended by this ordinance, the Municipal Code of the Village of Menomonee Falls shall remain in force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this ordinance are hereby repealed.

Section 9. This ordinance shall take effect and be in full force from and after its passage and publication.

Section 10. SEVERABILITY. If a court of competent jurisdiction adjudges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

Adopted by the Board of Trustees of the Village of Menomonee Falls on the 1st day of October, 2018.

David Glasgow, Village President

Date Published:

10/10/18

Janice Moyer, Village Clerk

EXHIBIT A

Chapter 71: Property Offenses

Article 1. Public Nuisance

Division 1. Generally

| | |
|------------------------------|---|
| Sec. 71-10. Purpose..... | 3 |
| Sec. 71-11. Defined..... | 3 |
| Sec. 71-12. Prohibited..... | 4 |
| Sec. 71-13. Enforcement..... | 4 |
| Sec. 71-14. Penalty | 4 |

Division 2. Abatement

| | |
|-----------------------------------------------|---|
| Sec. 71-20. Determination | 4 |
| Sec. 71-21. General Abatement Procedure..... | 4 |
| Sec. 71-22. Summary Abatement Procedure | 5 |
| Sec. 71-23 Other Methods Not Excluded | 5 |

Division 3. Chronic Nuisance

| | |
|------------------------------------------------|---|
| Sec. 71-30. Purpose..... | 5 |
| Sec. 71-31. Definitions | 6 |
| Sec. 71-32. Chronic Nuisance Notice | 7 |
| Sec. 71-33. Abatement Plan..... | 8 |
| Sec. 71-34. Penalty | 8 |
| Sec. 71-35. Additional Nuisance Activity | 8 |
| Sec. 71-36. Retaliation Prohibited | 8 |
| Sec. 71-37. Appeal..... | 9 |

Article 2. Property Maintenance

Division 1. Generally

| | |
|-----------------------------------------------|----|
| Sec. 71-50. Findings and Purpose..... | 10 |
| Sec. 71-51. Definitions | 10 |
| Sec. 71-52. Enforcement..... | 11 |
| Sec. 71-53. Inspections; Right of Entry | 11 |
| Sec. 71-54. Order to Correct..... | 12 |
| Sec. 71-55 Inspection Fees | 13 |
| Sec. 71-56 Penalty | 13 |
| Sec. 71-57. Other Methods Not Excluded | 13 |

Division 2. General Standards

| | |
|-----------------------------------------|----|
| Sec. 71-60. Building Requirements | 13 |
|-----------------------------------------|----|

EXHIBIT A

Sec. 71-61. Property Requirements15
Sec. 71-62. Landscape Standards.....16

Division 3. Vegetation

Sec. 71-70. Lawn Areas16
Sec. 71-71. Weeds.....16
Sec. 71-72. Landscape Plantings16
Sec. 71-73. Dead Vegetation16
Sec. 71-74 Village Abatement Procedure.....16

Division 4. Residential Property

Sec. 71-80. Basic Equipment and Facilities.....17
Sec. 71-81. Condemnation of Unfit Dwelling18

Division 5. Commercial and Industrial Property

Sec. 71-90. Daily Maintenance19
Sec. 71-91. Waste Containers and Recycling Bins.....19
Sec. 71-92. Loading and Unloading Areas19
Sec. 71-93. Clean Conditions.....19
Sec. 71-94. Secure Premises19

Division 6. Vacant Property

Sec. 71-100. Vacant Structures.....19
Sec. 71-101. Vacant Lots19
Sec. 71-102. Obligations of Owner of Vacant Property19

Division 7. Personal Property

Sec. 71-110. Purpose and Intent20
Sec. 71-111. Prohibited Generally20
Sec. 71-112. Rubbish and Debris.....20
Sec. 71-113. Firewood20
Sec. 71-114. Motor Vehicles20
Sec. 71-115. Commercial and Industrial Material20
Sec. 71-116. Construction Sites20

EXHIBIT A

ARTICLE 1: PUBLIC NUISANCE

Division 1. Generally.

Sec. 71-10. Purpose. The Village Board finds that public nuisances exist in the Village of Menomonee Falls in the use and alteration of certain property that interferes with the interest of the public in the quality of life, tone of commerce, property values and the public health, safety, morals and welfare; the Village Board further finds that the continued occurrence of such activities and violations is detrimental to the health, safety, morals and welfare of the people of the Village of Menomonee Falls and the businesses thereof and visitors thereto. It is the purpose of this division to create one standardized procedure for securing legal and equitable remedies relating to the subject matter encompassed herein, without prejudice to the use of or procedures available under existing state or local law or subsequently enacted ordinances and to strengthen existing ordinances on the subject. This Article is intended to apply to public, not private, nuisances.

Sec. 71-11. Defined.

- a) *Public nuisance* means a thing, act, occupation, condition or use of property which continues for such a length of time as to:
 - 1. Substantially injure or endanger the comfort, health, repose or safety of the public; or
 - 2. In any way render the public insecure in life or in the use and enjoyment of property; or
 - 3. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any private property or any street, alley, highway, or other public way or the use of public property; or
 - 4. Any other act or omission which would otherwise be recognized as constituting a public nuisance pursuant to the statutory or common law of the state of Wisconsin.

- b) The following acts, omissions, places, condition and things are specifically declared to be public nuisances, but such enumeration shall not be construed to exclude other nuisances:
 - 1. Nuisances affecting health, welfare, and enjoyment of property;
 - 2. Nuisances affecting peace and safety;
 - 3. Repeated violations of any provision in this chapter.

EXHIBIT A

Sec. 71-12. Prohibited. No person shall erect, cause, continue, maintain or permit to exist, any public nuisance within the Village.

Sec. 71-13. Enforcement. The Village Manager, Director of Protective Services, or respective their designees shall enforce those provisions of this Article that come within the jurisdiction of their respective offices.

Sec. 71-14. Penalty. In addition to any other penalties provided in this Article, any person who permits or causes a public nuisance to exist in violation of section 71-12 shall be subject to the general penalty set forth in Section 1-7 of this Municipal Code. Each and every day during which a violation continues constitutes a separate offense.

Division 2. Abatement.

Sec. 71-20. Determination.

- a) No action shall be taken under this Division to direct the abatement of a public nuisance unless the premise where the nuisance is alleged to exist has been inspected.
- b) Upon determination that a public nuisance in fact exists within the Village, a report shall be prepared documenting the existence and nature of the public nuisance. The report shall recommend abatement measures.

Sec. 71-21. General Abatement Procedure

- a) *Notice to Owner or Occupant.* If it is determined that a public nuisance exists on a private premises and the public nuisance does not threaten great and immediate danger to the public health, safety, morals, decency or peace, a notice may be sent to the owner or occupant of the property. The notice shall contain:
 - 1. a description of the premises;
 - 2. a description of the nuisance;
 - 3. a statement that the owner or occupant has a minimum of ten days to abate the nuisance;
 - 4. a statement that if the nuisance is not abated in the time prescribed, the village may commence an action or cause the nuisance to be abated itself.
- b) *Delivery of Notice.* The notice described in subsection (a) shall be deemed properly delivered if served in the manner provided for service of a summons in the circuit court, upon the owner or occupant of the property. A copy of the notice shall also be posted on the premises.

EXHIBIT A

c) *Court Action.* If the owner or occupant fails to abate the nuisance within the time prescribed by the notice, the Village may cause an action to be commenced to abate the nuisance or may commence an action to seek forfeiture in a court of competent jurisdiction or both.

d) *Abatement by the Village.* If the owner or occupant fails to abate the nuisance within the time prescribed by the notice, the Village may enter upon the premises and cause the nuisance to be removed or abated.

1. *Order.* Prior to entering upon the premises to abate the nuisance, the Village shall first issue an order to the owner or occupant identifying specific actions that must be taken to abate the nuisance. The order shall state that if the specific actions are not completed within thirty days, the Village will cause the nuisance to be abated at the expense of the owner or occupant. The order shall be served in the manner provided for service of a summons in the circuit court and shall be posted on the premises.
2. *Appeal.* Any person affected by an order under this subsection may, within thirty (30) days of service of the order, apply to the circuit court for an order restraining the Village from entering on the premises and abating or removing the nuisance. The court shall determine the reasonableness of the order for abatement of the nuisance.
3. *Cost.* In addition to any penalty imposed, the cost of abating or removing a nuisance by the Village shall be collected from the owner or occupant and if notice was given to the owner, such costs may be collected as a special charge pursuant to Wis. Stat. § 66.0627.

Sec. 71-22. Summary Abatement Procedure. If the Village determines that a public nuisance exists and that there is a great and immediate danger to the public health and safety, the Village may cause the nuisance to be removed or abated and charge the cost to the owner, occupant or person permitting the nuisance.

Sec. 71-23. Other Methods Not Excluded. Nothing in this chapter shall be interpreted as prohibiting the abatement of a public nuisance by the Village in accordance with applicable state and local laws.

Division 3. Chronic Nuisance Premises

Sec. 71-30. Purpose. The Village Board finds that any premises that generates three or more responses in a one year period by the police department for nuisance activity, has received more than the appropriate level of general and adequate Village service and has placed an undue and inappropriate burden on the taxpayers of the Village. The Village Board therefore authorizes

EXHIBIT A

the Director of Protective Services to require the premises owner or occupant to comply with nuisance abatement plans and to charge the owner or occupant of such premises the costs associated with abating the violations at the premises where nuisance activities chronically occur as set forth in section 71-35.

Sec. 75-31. Definitions.

a) *Police department response* means a sworn, on-duty police officer is dispatched to a premises in response to a good faith report of nuisance activity, as defined below, occurring or having occurred at the premises, which complaint said officer finds to be credibly supported during his/her investigation, and which results in an arrest, or the issuance of a citation, or a criminal or juvenile complaint.

b) *Nuisance activity* means any of the following activities, behaviors, or conduct whenever engaged in by persons associated with a premises that causes or results in:

1. An act of harassment, as defined in Wis. Stats. § 947.013;
2. Disorderly conduct, as defined in Wis. Stats. § 947.01;
3. Battery, substantial battery, or aggravated battery, as defined in Wis. Stats. § 940.19;
4. Lewd and lascivious behavior, as defined in Wis. Stats. § 944.20;
5. Prostitution, as defined in Wis. Stats. § 944.30;
6. Theft, as defined in Wis. Stats. § 943.20;
7. Receiving stolen property, as defined in Wis. Stats. § 943.34;
8. Arson, as defined in Wis. Stats. § 943.02;
9. Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stats. Ch. 961;
10. Gambling, as defined in Wis. Stats. § 945.02;
11. Trespassing, as defined in Wis. Stats. §§ 943.13 and 943.14;
12. The execution of arrest or search warrants at a particular premises;
13. Alcohol violations, as defined in chapter 6 of the Code, and Wis. Stats. § 125.07;
14. Obstructing or resisting an officer, as defined in Wis. Stats. § 946.41;

EXHIBIT A

15. Violation of occupancy restrictions, as defined in the Code;
 16. Any conspiracy to commit, as defined in Wis. Stats. § 939.31, or attempt to commit, as defined in Wis. Stats. § 939.32, any of the activities, behaviors, or conduct enumerated in this subsection (b);
 17. Making, continuing or causing to be made any loud, disturbing or unnecessary sounds or noises emanating from or in the proximity to a premises by persons associated with that premises, such as horns, whistles, music amplification equipment, public address systems; and construction or repair machinery or garden and lawn equipment;
 18. Violation of the Village’s Property Maintenance Code as set forth in Article 2 of this Chapter.
- c) *Nuisance activity* shall not include police department responses related to:
1. domestic abuse, as defined in § 813.12 (1) (am),
 2. sexual assault, as described under §§ 940.225, 948.02, and 948.025, or
 3. stalking, as described in § 940.32

Sec. 71-32. Chronic Nuisance Notice

a) Whenever the police department has responded to three or more nuisance activities that have occurred at a premises during any consecutive 12-month period, the Director of Protective Services may notify the premises owner or occupant in writing that the premises constitutes a chronic nuisance. In calculating the requisite nuisance activities, the Director of Protective Services may count separate qualifying nuisance activities occurring on the same day (as long as they are distinct in time) or different days and further may consider whether or not to count a qualifying nuisance activity when it is reported by a person associated with the premises under circumstances that would encourage and not penalize self-reporting and facilitate police response for the benefit of the community.

b) 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.

c) The notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or occupant's last known address (deemed delivered on third day after depositing in mail) or if delivered in person to the premises owner. If the

EXHIBIT A

premises owner or occupant cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or occupant'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 or occupant.

Sec. 71-33. Abatement plan. Any owner receiving notice pursuant to section 71-32 shall meet with the Director of Protective Services within five days of receipt of such notice. The parties shall review the nuisance activities occurring at the premises for the purpose of determining the appropriate abatement plan for the premises. Within ten days of this meeting unless the Director of Protective Services agrees in writing to a longer period, the owner shall comply with the abatement plan agreed upon with the Director of Protective Services to end the nuisance activity on the premises. The plan shall also specify a name, address, telephone number and if applicable a fax number and e-mail address of a person living within 60 miles of the premises who can be contacted in the event of further police, fire, or inspection contact.

Sec. 71-34. Penalty. Any person failing to comply with the abatement plan under section 71-33 shall be subject to a penalty as provided under section 1-7 of the Code.

Sec. 71-35. Additional nuisance activity. If additional nuisance activity occurs within 12 months after the notice authorized under section 71-32 has been issued to the owner or occupant, and this additional nuisance activity has occurred not less than 15 days after such notice had been served, and the Director of Protective Services determines that reasonable efforts have not yet been made to abate the nuisance activity, then the Director of Protective Services shall calculate the cost of police department personnel response for this additional and any subsequent nuisance activities occurring within 12 months of the last nuisance activity, and shall prepare a statement of such costs to be assessed to the owner or occupant of the premises as a special charge against the property. The Director of Protective Services shall send the assessment of the cost of police response to the premises owner or occupant and notify the owner or occupant in writing that the assessment must be paid within 30 days or it will be levied and collected as a special charge pursuant to Wis. Stats. § 66.0627.

Sec. 71-36. Retaliation prohibited. It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the Director of Protective Services about nuisance activity on the landlord's premises. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in section 71-31; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in Wis. Stats. ch. 709, and ch. Ag. 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.

EXHIBIT A

Sec. 71-37. Appeal. An assessment of costs prepared by the Director of Protective Services pursuant to section 71-35 may be appealed to the Village Board. Any appeal must be filed within 15 days of receipt of the assessment of costs being appealed and the appeal must include an explanation from the appellant as to why the assessment of costs is inaccurate. The Village Board shall review the assessment of costs to determine whether it is an accurate calculation of the costs of the police department personnel response, after deciding such appeal(s) under this article, shall transmit a signed copy of the board's decision to the appellant and to the Director of Protective Services.

EXHIBIT A

ARTICLE 2: PROPERTY MAINTENANCE

Division 1. Generally

Sec. 71-50. Findings and Purpose.

a) *Findings.* Premises exist within the Village of Menomonee Falls for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or, further, that such conditions including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the village. It is further found and declared that by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and that if the conditions are not curtailed and removed, these conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the conditions. Such conditions are dangerous to the public health, safety, morals and general welfare of the Village and necessitate excessive and disproportionate public resources for infrastructure, public safety, crime prevention, fire protection and other public services. By reason of timely regulations and restrictions contained in this article, the growth of slums and blight may be prevented; the neighborhood and property values thereby maintained; the desirability and amenities of residential and nonresidential uses and neighborhoods enhanced; and the public health, safety and welfare protected and fostered.

b) *Purpose.* The enactment and enforcement of this article is to promote the health safety, convenience, comfort, morals, prosperity and general interest and welfare of the citizens of the Village by establishing minimum standards and requirements for the maintenance of residential and nonresidential property in the Village. In addition, this article intends to authorize and establish procedures for the inspection of residential and nonresidential premises; to fix penalties for the violations of this article; and to provide for the repair, demolition or vacation of premises unfit for human habitation or occupancy or use.

Sec. 71-51. Definitions.

a) *Building Inspector* means the duly appointed designee of the Village Manager as set forth in Chapter 18 of this Code.

b) *Dwelling* means a structure that is used for the purpose of human habitation and includes a single unit that may be part of a larger structure as well as a structure that by itself constitutes a single dwelling.

EXHIBIT A

c) *Landscape Plantings* mean any vegetation that has been planted on property for the purpose of landscaping and includes, but is not limited to, trees, bushes, shrubs, flowers, and grasses.

d) *Litter* means any uncontainerized manmade or man-used waste which, if deposited within the village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the people of the village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture oil, carcass of a dead animal or nauseous or offensive matter of any kind or any object likely to injure any person or create a traffic hazard.

e) *Noxious Weeds* means a weed that has been designated by an agricultural authority as one that is injurious to agricultural or horticultural crops, natural habitats or ecosystems include, but not limited to, the following: Canada thistle, leafy spurge, field bindweed (creeping Jenny), poison ivy, ragweed, perennial sow thistle, and burdock.

f) *Occupant* means a person or company who regularly uses a specific parcel a land for either habitation or commercial use pursuant to terms agreed to by the owner of the property.

g) *Occupied* means property that is currently being used on a regular basis by either a person or company.

h) *Owner* means a person or company that possesses an ownership interest in the property.

i) *Vacant* means property that is not being used on a regular basis.

j) *Code Compliance Officer* means the duly appointed designee of the Village Manager tasked with enforcing the provisions of this Article.

Sec. 71-52. Enforcement. The enforcement of this article shall be carried out by the duly appointed Code Compliance Officer and his or her designee. The Code Compliance Officer shall investigate complaints, issue orders to correct, impose inspection fees, and issue citations.

Sec. 71-53. Inspections; Right of Entry.

a) *Inspection.* The Code Compliance Officer and the Building Inspector are hereby authorized to make such inspections and to take such action as may be required to enforce the provisions of this Chapter in order to safeguard the health and welfare of the occupants of all buildings and of the general public.

EXHIBIT A

b) *Right of entry.* Whenever it is necessary to make an inspection to enforce any of the provisions of or perform any duty imposed by this chapter or any applicable law, or whenever the Code Compliance Officer or Building Inspector has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such building or premises hazardous, unsafe or dangerous for any reason specified in this chapter or other similar law, the Code Compliance Officer and Building Inspector are authorized to enter such property at any reasonable time to inspect the same and perform any duty imposed upon the Code Compliance Officer or Building Inspector by this Chapter or other applicable law, provided that:

1. If such property is occupied, the Code Compliance Officer or Building Inspector shall first present proper credentials to the occupant and request entry, explaining the reasons therefor; and
2. If such property is unoccupied, the Code Compliance Officer or Building Inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the property and request entry, explaining reasons therefor. If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the Code Compliance Officer or Building Inspector shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.

Sec. 71-54. Order to Correct.

a) Whenever upon inspection of any premises within the Village, it is determined that a violation of this Article exists, an order shall be issued to the owner or occupant of the premises to correct the condition of the premises.

b) The order shall contain all of the following information:

1. Name of the owner or occupant receiving the order.
2. An address or tax key number identifying the premises in violation.
3. A description of the conditions in violation of this article including the specific sections of this article being violated.
4. A time within which the offending conditions shall be corrected and a statement that if the conditions are not corrected the village may take additional action to enforce the provisions of this article.

c) The order shall be served by delivering a copy to the owner or occupant personally or by delivering the same to and leaving it with any adult, competent person in

EXHIBIT A

charge of the premises, or in case no such person is found upon the premises, by affixing a copy of the order in a place near the entrance to the premises, or by regular mail.

Sec. 71-55. Inspection Fees.

a) To enforce the provisions of this Article, the Village may charge an inspection fee to recover public resources dedicated toward the enforcement of this Article. The inspection fee for an initial inspection shall not exceed \$100 and the inspection fee for any subsequent inspection may not exceed \$300. The Village may collect inspection fees under this section as a special charge pursuant to Wis. Stat. § 66.0627 if an order was issued to the owner of the property pursuant to Section 71-54.

b) *Notice.* The Village may not charge an inspection fee pursuant to sub (a) unless the order under section 71-54 stated that an inspection fee may be charged.

Sec. 71-56. Failure to Comply.

a) *Penalty.* Any person, firm or corporation violating any provision of this article shall be subject to the general penalty provisions in section 1-7 of this Municipal Code.

b) *Citation.* The Code Compliance Officer may issue citations for violations of this Article pursuant to Chapter 800 of the Wisconsin Statutes to enforce the provisions of this Article.

Sec. 71-57. Other Methods Not Excluded. Nothing in this Chapter shall be interpreted as prohibiting the enforcement of this article by the Village in accordance with applicable state and local laws.

Division 2. General Requirements

Sec. 71-60. Building Requirements.

a) *Applicability.* This section applies to all structures in the Village, whether dwelling, nondwelling or accessory.

b) *Structure.* All structural members shall be maintained free from deterioration and shall be capable of safely supporting the imposed dead and live loads.

c) *Exterior Walls.* The exterior walls shall be free of holes, breaks, loose or rotting boards or timbers and any other condition which might admit rain or moisture to the interior portions of the walls, or to the occupied space.

d) *Foundation Walls.* The foundation walls of every structure shall be maintained plumb, free from open cracks, weather tight, rodent and insect proof, and reasonably

EXHIBIT A

watertight, and shall be kept in a reasonably good state of maintenance and repair. The foundation elements shall adequately support the building at all points.

e) *Roofs and Drainage*. The roofs and flashing of every structure shall be sound, tight and maintained so as to not leak, and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, eaves, soffits or foundations. The gutters and downspouts on every structure, when provided, shall be adequately secured, kept free of obstruction and in reasonable state of repair and function as designed.

f) *Porches, Railings, Stairways, Deck Patios and Decorative Features*. Every outside stair, porch, deck, patio and every appurtenance attached thereto shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair. All exterior decorative features shall be maintained in good repair and properly anchored.

g) *Handrails and Guards*. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and maintained in good condition.

h) *Overhang Extensions*. Canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts and any other similar overhang extension shall be maintained in good repair and be properly anchored.

i) *Chimneys and Towers*. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained in a structurally safe and sound condition.

j) *Doors, Windows and Basement Hatchways*. Every exterior door, door frame, door hinge, door latch and basement hatchway shall be substantially tight and shall be kept in sound condition and good repair. Exterior doors, when closed, shall fit reasonably well within the frame. Latches and hinges of all exterior doors to dwelling units shall be tightly secured to the door and in good working order. Every basement hatchway shall be maintained to prevent the entrance of animals, rain and surface water. Every window sash shall be fully supplied with glass window panes or an approved substitute which are without open cracks or holes. Every window sash shall be in good condition and fit reasonably tight within its frame.

k) *Garage Doors*. All garage doors shall be maintained in good operating condition and shall not have any holes or cracks. If the exterior surface of the garage door shall also be maintained in a manner that protects it from weather conditions.

l) *Paint and Other Preservatives*. If paint or other preservative have been applied to an exterior surface, it shall be repainted, resurfaced or otherwise treated in a workmanlike manner when the paint or other preservative is missing, flaking and peeling off or its

EXHIBIT A

condition is a blighting influence. Siding not commonly intended or customarily used in a natural or exposed state shall be painted or sealed to protect the siding material.

m) *Accessory Structures*. All accessory structures including but not limited to storage sheds, dog houses, flag poles, kennels, play houses, tree houses, barbecue pits and planters shall comply with all provisions of this chapter and shall be generally maintained in good repair and in a clean and sanitary condition.

Sec. 71-61. Property Requirements.

a) *Fences*. All fences shall be properly maintained and kept in good repair or shall be removed. If paint or other preservatives applied to the exterior surface falls is flaking, peeling or wearing off, it shall be repainted, resurfaced or otherwise treated in a workmanlike manner.

b) *Walking and Driving Surfaces*. Sidewalks, walks, drives, and other concrete, asphalt, bricked, graveled, stoned or similarly hardscaped areas shall be kept in sound condition and good repair. Conditions resulting in dust, dirt, loose stones or other aggregate being repeatedly deposited upon the immediate adjacent public or private property are prohibited.

c) *Lawn Areas*. Lawn areas shall not be allowed to deteriorate to such a condition as to be a blighting influence on the surrounding property. Lawns shall be maintained in compliance with Division 3 of this Article. Where lawn areas are not provided or have been removed such areas shall be landscaped with garden beds or other ground cover.

d) *Erosion and Soil Runoff*. Whenever erosion of the soil causes the same to spill over onto the sidewalk, street or alley, the condition shall be corrected by the construction of a suitable retaining-wall, grading, or sodding and/or the planting of grass or other suitable ground cover.

e) *Water Runoff*. All property shall be graded and maintained so as to ensure that water runs away from the foundation of the property.

f) *Retaining Walls*. Retaining walls shall be structurally sound, and not be constructed or maintained in such a manner as to cause repeated flow of mud, gravel or debris upon adjacent lands.

g) *Compost Piles*. Compost piles or yards waste shall be contained in a holding bin that is designed and maintained in a manner that does not produce an odor, nuisance, nor provide a rodent harborage, nor shall they be allowed to deteriorate to such a condition as to being a blighting influence.

EXHIBIT A

h) *Swimming Pools, and Hot Tubs.* All swimming pools and hot tubs, whether permanent or temporary shall be maintained in a manner that is consistent with the overall welfare of the community. The water shall be kept clean so as to not create a breeding ground for insects or rodents. If not in use, the swimming pool or hot tub shall be secured or removed entirely to prevent the creation of a nuisance.

i) *Lighting Features.* All exterior lighting features shall be maintained in a good functioning condition and shall not constitute a hazardous condition.

j) *Insect and Rodent Control.* Building and exterior property areas shall be kept free from insect and rodent infestation. Where an insect or rodent infestation is found, it shall be promptly exterminated by legal processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

k) *Litter.* Property shall be maintained so as to not accumulate litter of any kind. All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the litter is allowed to be removed from the premises by the elements.

l) *Storm Water Retention Facilities.* Any property designed to retain storm water shall be maintained in clean and orderly fashion to prevent the deterioration of the design, accumulation of litter, or infestation of rodents or insects.

Sec. 71-62. Landscape. All landscaping features, such as garden and flower beds, walkways, decorative ornaments, retaining walls, and fences shall be kept in a clean, safe and sanitary condition. The appearance of a landscape feature shall not be allowed to deteriorate to such a condition as to be a blighting influence.

Division 3. Vegetation

Sec. 71-70. Lawn Areas. All owners or occupants of property shall maintain grasses in lawn areas in a healthy condition of no taller than eight inches in height. Whenever grasses in lawn areas exceed eight inches, the Village may order the owner or occupant to cut the grasses pursuant to section 71-54 of this article within a minimum of three days.

Sec. 71-71. Weeds. All owners or occupants of property shall take precautions to prevent the existence of noxious weeds and no owner or occupant shall permit a noxious weed to exceed eight inches in height. Whenever noxious weeds exist in excess of eight inches, the Village may order the owner or occupant to remove the noxious weeds pursuant to section 71-54 of this article within a minimum of three days.

Sec. 71-72. Landscape Plantings. All owners or occupants of property shall maintain all landscape plantings, including trees, shrubs, bushes and any other plant in a clean and orderly

EXHIBIT A

manner. Landscape plantings shall not be permitted to grow so large as to block doorways, windows, walkways or the vision of a person safely using the right-of-way. If a landscape planting is located near a structure it shall be maintained so as to be kept away from the structure and shall not be permitted to damage the exterior or foundation of the structure.

Sec. 71-73. Dead Vegetation. No owner or occupant shall permit dead vegetation to remain on property including, but not limited to, dead trees or other landscape plantings, grass clippings, leaves, noxious weeds or any other plant material.

Sec. 71-74. Village Abatement Procedure. Whenever the Code Compliance Officer issues an order pursuant to Section 71-54 for a violation of this Division, the order shall state that failure to correct the violation may result in the Village taking action to remove the violation. The actual cost to remove the violation shall be charged to the owner of the property as a special charge pursuant to Wis. Stats. § 66.0627.

Division 4. Residential Property

Sec. 71-80. Basic Equipment and Facilities. No person shall occupy as owner-occupant or let to another person for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking and/or eating which does not comply with the following requirements:

- a) *Kitchen sink required.* Every dwelling unit shall contain a working kitchen sink.
- b) *Toilet required.* Every dwelling unit shall contain a working toilet.
- c) *Bath required.* Every dwelling unit created after the effective date of this chapter shall contain a working bath.
- d) *Privacy in a room containing toilet and bath.* Every toilet and every bath shall be contained within a room or within separate rooms, which afford privacy to a person within, said room or rooms.
- e) *Hot and cold water lines to bath.* Every bath shall be properly connected with both hot and cold water lines.
- f) *Bath water-heating facilities required.* Every dwelling shall have supplied water-heating facilities, which are properly installed, are maintained in reasonably good working condition, and are properly connected.
- g) *Connection of sanitary facilities to water and sewer system.* Every kitchen sink, toilet, lavatory basin and bath shall be reasonably good working condition and properly connected to an approved water and sewer system.
- h) *Garbage storage or disposal facilities.* Every dwelling shall be supplied with adequate garbage disposal facilities or garbage storage containers.

EXHIBIT A

i) *Exits*. Every exit from every dwelling shall comply with the following requirements:

1. It shall be kept in a reasonably good state of repair;
2. It shall be unobstructed at all times;
3. All exit stairways of four or more risers shall have at least one handrail and all stairways which are five feet or more in width, or which are open on both sides, shall have a handrail on each side.
4. All handrails shall be not less than 30 inches vertically above the nose of the stair treads and not less than 42 inches above stairway platforms.

Sec. 71-81. Condemnation of Unfit Dwellings and Dwelling Units. The designation of dwellings or dwelling units as unfit for human habitation and the procedure for condemnation and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:

a) Any dwelling or dwelling unit which the Building Inspector shall find to have any of the following defects shall be condemned as unfit for human habitation:

1. One which is so damaged, decayed, dilapidated, unsanitary, difficult to heat, unsafe or vermin infested that it creates a hazard to the safety or welfare of the occupants or of the public;
2. One which lacks illumination, ventilation, or sanitary facilities adequate to protect the safety or welfare of the occupants or of the public; or
3. One which, because of its general condition or location, is unsanitary or otherwise dangerous to the safety or welfare of the occupants or of the public.

b) *Procedure*. Whenever the Building Inspector has condemned a dwelling or dwelling unit as unfit for human habitation, an order to correct shall be issued in accordance with section 71-54. In addition, a placard shall be placed on or near the entrance to the dwelling or dwelling unit stating that the dwelling or dwelling unit is unfit for human habitation.

c) *Vacation of Premises*. Any dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation by the Building Inspector shall be vacated within a reasonable time as required by said inspector. No owner or operator shall let to any person for human habitation and no person shall occupy any dwelling or dwelling

EXHIBIT A

unit which has been condemned and placarded by the Building Inspector after the date on which said Inspector has required the affected dwelling or dwelling unit to be vacated.

d) *Removal of Placard.* No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation.

Division 5. Commercial and Industrial Property

Sec. 71-90. Daily Maintenance. An owner or person in control of a commercial or industrial property shall take measures including daily cleanup of the premises to prevent litter from accumulating on the property.

Sec. 71-91. Waste and Recycling Containers. All commercial and industrial waste and recycling containers or dumpsters shall be kept away from the street and concealed from building entrances, pedestrian areas, adjacent residential structures and public areas. They shall also be screened from adjacent properties and public rights of way with a dedicated waste enclosure constructed of materials consistent with the principal structure. The location shall provide adequate access for the required servicing of the containers and the surrounding area shall be graded or curbed to ensure that drainage does not reach storm drains or surface waters. Both the containers and the screening shall be maintained in a good functioning condition.

Sec. 71-92. Loading and Unloading Docks. An owner or person in control of a loading or unloading dock shall ensure that the area is kept clean and shall not allow property of any kind to accumulate in or around the area of a loading or unloading dock.

Sec. 71-93. Clean Conditions. The owner or person in control of any public place including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations, and hospitals and clinics shall at all times keep the premises clean of all litter.

Sec. 71-94. Secure Premises. The owner or occupant of any commercial or industrial property shall maintain structures in a manner that keeps them secure from unauthorized persons or animals from entering onto the property and accessing the interior of structures. This requires that all access points to a structure be secured with a door or other mechanism that can be locked. The door shall be flush to the exterior wall to prevent unauthorized access.

EXHIBIT A

Division 6. Vacant Property

Sec. 71-100. Vacant Structures. All vacant structures shall comply with the provisions of this chapter and shall be kept secure.

Sec. 71-101. Vacant Lots. All vacant lots shall be kept in a manner that is safe and free of equipment or other features that could create a hazard to the community. Vacant lots that remain vacant for more than one year shall be graded and seeded to provide greenspace.

Sec. 71-102. Obligation of Owner of Vacant Property. An owner of vacant property that is determined to be in violation of a provision of this chapter shall provide local contact information to the Village of any individual/s or restoration company that the owner has directed to bring the vacant property into compliance.

Division 7. Personal Property

Sec. 71-110. Purpose and Intent. This article regulates the manner in which personal property is stored on private property in the Village. Personal property that is stored in a manner that is inconsistent with this article constitutes a blighting factor that adversely affects surrounding property values, health safety and general welfare.

Sec. 71-111. Prohibited Generally. Unless explicitly permitted by Chapter 122, no person shall allow personal property to accumulate on private property in the Village in a manner that is unnecessary, unorganized, unsightly, or otherwise undesirable.

Sec. 71-112. Rubbish and Debris. Personal property that the owner intends to throw away, give away, sell or otherwise discard shall not be stored in an area of the property visible to the public for more than five consecutive days. The property shall be stored in a manner that does not harm any vegetation on the property or prevent compliance with any other provision of this chapter.

Sec. 71-113. Firewood. Firewood shall be cut, split and stored in a stacked and orderly manner and in a dry location so as not to attract rodents or vermin.

Sec. 71-114. Motor Vehicles.

a) *Unlicensed or inoperable vehicles.* No person shall store an unlicensed or inoperable vehicle on private property in the Village in a manner that is visible to the public or neighboring private property owners. Unlicensed or inoperable vehicles must also be stored on a paved surface and in a secure manner.

b) *Licensed and operable vehicles.* No person may store a licensed and operable vehicle on private property in the Village in a manner that constitutes blight. Vehicles shall be maintained and kept in a secure and clean condition.

EXHIBIT A

Sec. 71-115. Commercial and Industrial Material. Unless explicitly permitted by Chapter 122, no person shall store equipment and materials relating to a commercial or industrial use in a manner that is visible to the public.

Sec. 71-116. Construction Sites. The property owners and the prime contractors in charge of a construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each workday and placed in containers which will prevent litter from being carried from the premises by the elements.