

CHAPTER 10
PUBLIC NUISANCE

- 10.01 [Public Nuisances Prohibited](#)
- 10.02 [Public Nuisances Defined](#)
- 10.03 [Public Nuisances Affecting Health](#)
- 10.04 [Public Nuisances Offending Morals and Decency](#)
- 10.05 [Public Nuisances Affecting Peace and Safety](#)
- 10.06 [Abatement of Public Nuisances](#)
- 10.07 [Cost of Abatement](#)
- 10.08 [Accumulation and Storage of Junk and Junk Automobiles and Trash](#)
- 10.09 [Offensive Industries](#)
- 10.10 [Control of Weeds and Grasses](#)
- 10.11 [Vehicle Parking Requirements](#)
- 10.12 [Penalty](#)

10.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village.

10.02 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;
- (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.

10.03 PUBLIC NUISANCES AFFECTING HEALTH. 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 coming within the definition of sec. 10.02:

(1) **ADULTERATED FOOD.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) **UNBURIED CARCASSES.** Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) **BREEDING PLACES FOR VERMIN, ETC.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(4) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not fly-tight.

(6) **NOXIOUS WEEDS.** All noxious weeds and other rank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed one foot. This requirement shall not apply to lands actively being farmed nor areas designated as natural areas.

(7) **WATER POLLUTION.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, commercial or industrial wastes or other substances.

(8) **NOXIOUS ODORS, ETC.** Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary person which annoy, discomfort, injure or inconvenience the health of any appreciable number of person within the village.

(9) **STREET POLLUTION.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

(10) **AIR POLLUTION.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.

(11) **SURFACE WATERS PROHIBITED IN THE SEWAGE DISPOSAL SYSTEM.** The discharge of any storm water, surface water, ground water, roof run-off, subsurface drainage which is not contaminated, unpolluted cooling water or unpolluted industrial process waters into the sewage disposal system.

10.04 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 within the definition of § 10.02:

(1) **DISORDERLY HOUSES.** All disorderly houses, bawdy houses, houses of ill-fame, gambling houses and building or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) **GAMBLING DEVICES.** Any device or machine which is used for gambling.

(3) **UNLICENSED SALE OF LIQUOR OR 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.

(4) **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.

10.05 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 § 10.02:

(1) **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.

(2) **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.

(3) **UNAUTHORIZED TRAFFIC SIGNS.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may

be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.

(4) **OBSTRUCTION OF INTERSECTIONS.** All trees, hedges, billboards or other obstruction which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) **TREE LIMBS.** All limbs of trees which project over and less than 10 feet above any public sidewalk, street or other public place.

(6) **DANGEROUS TREES.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public,

(7) **FIREWORKS.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.

(8) **DILAPIDATED BUILDINGS.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit.

(9) **WIRES AND CABLES OVER STREETS.** All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.

(10) **NOISY ANIMALS OR FOWL.** The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.

(11) **OBSTRUCTION OF STREETS; EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under 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 do not conform to the permit.

(12) All open and unguarded pits, wells, excavations or unused basements.

(13) **UNLAWFUL ASSEMBLIES.** Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

10.06 ABATEMENT OF PUBLIC NUISANCES. (1) **ENFORCEMENT.** The Police Department, the Chief of the Fire Department or his designated representative, the Building Inspector, the Health Officer, the Plumbing Inspector, the Village Engineer, Superintendent of the Public Works, Superintendent of Wastewater Treatment Plant or any other public official shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspection upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.

(2) **SUMMARY ABATEMENT.** If the inspection officer determines that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or

decency, the President may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(3) **ABATEMENT AFTER NOTICE.** 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, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within such 10 days, the proper officer shall cause the nuisances to be removed as provided in sub. (2).

(4) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin.

(5) **APPEAL PROVISION.** Any person aggrieved by any administrative determination under this section may have such determination reviewed as provided in Chapter 24 of the Municipal Code of the Village of Sussex or other remedies of law.

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

10.08 ACCUMULATION AND STORAGE OF JUNK AND JUNK AUTOMOBILES AND TRASH.

(1) **PERMITTED STORAGE.** No person shall store or allow to remain in the open upon any public or private property within the Village any disassembled or wrecked motor vehicles, or parts thereof, unless it is in connection with the operation of an authorized junk yard. The storage of any wrecked or damaged motor vehicle upon premises operated as an automobile sales or repair business enterprise located in a properly zoned area shall be permitted for a period not to exceed 30 days.

(2) **ACCUMULATED JUNK AND TRASH PROHIBITED.** No person shall allow to accumulate or store or permit the accumulation or storage of any junk or trash upon land that may be viewed from a public street or from another property unless it is in connection with the operation of an authorized junk yard, and failure to abide by this section is declared to be a public nuisance.

(3) **DEFINITIONS.** Whenever the following terms are used in this section, they shall be construed as follows:

(a) "Junk" shall mean worn out or discarded material of little or no value, including, but not limited to, household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, old iron, chain, brass, copper, tin. Lead, and other base metals, trailers, farm machinery and equipment or any parts thereof to be junked or demolished, taken apart or destroyed for salvage materials, paper waste, used lumber or building materials, or any other unsightly debris.

(b) "Trash" means any rubbish, ashes, paper, dirt, stones, bricks, tin cans, boxes, barrels or other substances whatsoever, oil kerosene, benzene or other similar oil or oily substance, or liquid, wood, brush and any form of discarded vegetation, foundry sand and industrial waste of any kind or description, sewerage material removed from septic tanks and dry wells used in connection with sewerage disposal

systems.

(4) **VEHICLES NOT TO BE ABANDONED.** (a) **Determination of Abandonment.** No person shall leave unattended any motor vehicles, trailer, semi-trailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this section, whenever any vehicle has been left unattended without the permission of the property owner for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned vehicle when it is out of ordinary public view, or when it is currently registered or designated as not abandoned by a duly authorized Village official.

(b) **Vehicles on Public Highways.** No person may cause a motor vehicle to be abandoned within the meaning of Section 10.08(4) on or along any State, County or Village highway or on any public or private property.

(c) **Sale or Junking of Abandoned Vehicles.** Any vehicle in violation of Section 10.08(4) shall be impounded until lawfully claimed or disposed of under this section except that if it is deemed by the Village Administrator that the cost of towing and storage would exceed the value of the vehicle, then that motor vehicle may be junked or sold by the Village prior to the expiration of the storage period upon determination by the Village Administrator that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles that exceed 19 model years in age shall be disposed of in accordance with Section (d) below.

(d) **Storage and Sale.** (1) **Notice to Owner.** Any vehicle which is deemed abandoned by the Village Administrator of the Village and not disposed of immediately under Section (c) above shall be retained in a convenient place of storage for a minimum of ten days after certified mail notice has been sent to the owner and to lienholder of record to permit reclamation of the vehicle upon payment of accrued charges. Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all right, title and interest in the vehicle and a consent to the sale of the vehicle. Each stored vehicle not reclaimed by its owner within the time listed above may be sold. The Village may dispose of the vehicle by sealed bid or auction sale. At such public sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the Village Administrator in which event all bids may be rejected. If all bids are rejected or no bid is received, the Village may either readvertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold.

(2) **PROCEDURE FOR BIDDING.** Public notice of the sale, whether it be by auction or sealed bid, shall be posted at the Village Hall and at two other public locations in the Village. In addition, a copy of the notice shall be mailed to the last owner of record and lienholder of record.

(3) **PROCEDURE AFTER SALE.** Upon the sale of the abandoned vehicle, the Village Administrator shall supply the purchaser with a completed Form MVD 2419 which will enable said purchaser to obtain a registration certificate of title for the vehicle. Purchaser shall have ten days to remove the vehicle from the storage area but shall pay a reasonable storage fee if established by the Village Administrator for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, if the vehicle has not as yet been claimed by the purchaser, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to again be abandoned and may be sold again. Any

list of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list. The Village Administrator may charge a fee for the preparation of said list.

(4) NOTICE TO MOTOR VEHICLE DEPARTMENT. Within five days after the sale or disposal of a motor vehicle as provided in this section, the Village Administrator shall advise the Motor Vehicle Department of the sale or disposition on the appropriate form supplied by the Motor Vehicle Department.

(5) APPEAL PROVISION. Any person aggrieved by any administrative determination under this section may have such determination reviewed as provided in Chapter 24 of the Municipal Code of the Village of Sussex or other remedies of law.

10.09 OFFENSIVE INDUSTRIES. (1) OFFENSIVE INDUSTRIES. No person, organization or corporation shall operate, locate, manage, construct or maintain any industry defined as offensive herein within one and one-half (1 1/2) miles of the Village limits of the Village of Sussex, unless and until said person, organization or corporation applies for and receives a permit therefor. The Village Board of the Village of Sussex will have the responsibility to prohibit or grant and regulate permits under this section. The following are examples of industries determined to be offensive and requiring approval. This list is not all inclusive, but are examples:

Manufacture of cement, lime, gypsum, plaster of Paris, acid, explosives, fertilizers or glue, rendering plants, refineries, tanneries or incinerators, stockyards or slaughter houses, junk or salvage yards, drop forges or foundries, storage of explosives except as incidental to a permitted use, storage of gasoline or petroleum in excess of 50,000 gallons, quarrying and extraction of minerals.

(2) "OFFENSIVE INDUSTRIES" DEFINED. An "offensive industry" as falling under the jurisdiction of this ordinance shall be any industry or business that conducts or is likely to conduct a nauseous, offensive or unwholesome business that is likely to cause illness, pain or adversely affect persons with ordinary sensibilities or adversely affect the person and property of ordinary persons within the Village by reason of noise, dust, environmental pollution (air or water), odor, lateral support, vermin, unsightliness, vapor, gases, odorous substances (visible or invisible), safety, or any other condition that has a negative impact upon ordinary persons or their property. Such industries are hereby declared to be public nuisances since they could, unless regulated, interfere substantially with comfortable enjoyment of life, health, safety of another or others. Agricultural uses violating this section shall only be regulated hereunder if the use is a threat to public health and safety pursuant to Section 823.22, Wis. Stats.

(3) PERMIT REQUIRED. Any person, organization or corporation conducting or intending to conduct any business or industry likely to violate this ordinance shall apply for a permit to operate such industry and shall comply with all regulations imposed by the Village Board. Should the request be denied, applicant shall immediately discontinue said offensive industry. Procedure for obtaining permit:

(a) Applicant shall completely fill out application supplied by Village.

(b) Applicant shall file with Village Administrator all surveys, tests and engineering studies necessary to adequately inform Village Board as to steps that are being taken to prevent industry from being or becoming a public nuisance.

(c) A public hearing on the application for a permit will be conducted by the Village Board within 60 days of the filing of the application. Applicant will be notified of the date of the public hearing and will be

given opportunity to be fully heard. A Class I notice of the public hearing will be advertised in the Village's official newspaper, giving notice to the public of the purpose of the public hearing.

(d) The Village Board, after the public hearing, may request a recommendation from the township involved and the Village Plan Commission and thereafter may deny, grant, or grant with restrictions and regulations, the permit. If the permit is granted, the Village shall record the permit with the Register of Deeds for Waukesha County.

(e) To defray expenses incurred by the Village for publication, mailing, administration of permit, legal, planning and engineering expenses necessary to process this permit, applicant shall file with its application a fee of \$200.00.

(4) VIOLATIONS. Any person, organization or corporation violating the terms of this ordinance or conducting an offensive industry under this ordinance without a permit or violating any term or condition of the permit shall be subject to the following penalties:

(a) A fine for any violation of not less than \$50.00 and not more than \$1,000.00 upon conviction, together with costs. Each day that a violation occurs shall be considered a separate violation of this ordinance.

(b) An action may be brought for the abatement or removal of the public nuisance in the name of the Village or in the name of the State of Wisconsin with the Village Board as relator pursuant to Section 823.01, 823.02 and 823.07, Wis. Stats.

10.10 CONTROL OF WEEDS AND GRASSES. (1) MOWING REQUIRED. No person owning property within the Village shall permit to grow or pollinate upon his premises any weeds or grasses which cause or produce hay fever in human beings, exhale unpleasant or noxious odors or conceal filthy deposits. In order to prevent such growth and pollination, it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses or weeds exceeding one foot in height. This requirement shall not apply to lands actively being farmed nor areas designated as natural areas.

(2) MOWING BY VILLAGE. The Weed Commissioner shall enforce this section and if any person shall fail to comply herewith, the Commissioner shall, after five days written notice to the owner, cause the premises to be mowed and report the cost thereof in writing to the Village Clerk in the manner provided in Sec. 66.98(1) and 74.11, Wis. Stats. Such charge shall be spread on the tax roll as a special tax to be collected in the same manner as other taxes unless such lands are exempt from taxation.

10.11 VEHICLE PARKING REQUIREMENTS. Any parking or storage of a motor vehicle in the Village of Sussex, in a manner that does not fully conform with the requirements of Section 17.0604(C) entitled "All Vehicles Parked on Private Property," and/or Section 17.0607 entitled "Parking Spaces Not to be Used for Long-Term Storage," of the Village of Sussex Municipal Code, whichever one or more provisions may be applicable, is hereby specifically declared to be a public Nuisance.

10.12 PENALTY. Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as provided in §25.04 of this Municipal Code.