

CHAPTER 1476
Public Nuisances

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CROSS REFERENCES

Animal nuisances- see GEN. OFF. 618.07, 618.13
 Peace disturbances - see GEN. OFF. 618.07, Ch. 648
 Noxious odors; filthy accumulations; polluting and diverting watercourses - see GEN. OFF. 660.04
 Sex offenses as nuisances - see GEN. OFF. 666.16
 Paint removal and exterior surface cleaning - see B. & H. 1474.07
 Nuisances under Exterior Property Maintenance Code - see B. & H. 1490.07
 Infestation - see B. & H. 1490.12

1476.01 PUBLIC NUISANCE DEFINED.

As used in this chapter, "public nuisance" means any fence, wall, shed, house, building or structure, or any part thereof, any tree, pole or smokestack, or any excavation, basement, cellar, sidewalk, subspace, dock, wharf or landing dock, which, in whole or in part, by reason of the condition in which the same is permitted to be or remain, shall or may endanger the health, life, limb or property of, or cause any hurt, harm, inconvenience, discomfort, damage or injury to, any person in the Village, in any one or more of the following particulars:

- (a) By reason of being a nuisance to the general health of the community;
- (b) By reason of being a fire hazard;
- (c) By reason of being unsafe for occupancy or use on, in, upon, about or around; or

- (d) By reason of being a nuisance because of long continued vacancy or lack of reasonable or adequate maintenance of a structure and/or premises adjacent thereto, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated. (Ord. 89-73. Passed 12-18-73.)

1476.02 COMPLAINT; INSPECTIONS; AUTHORITY OF BUILDING INSPECTOR, POLICE CHIEF AND FIRE CHIEF; SUMMARY ABATEMENT; NOTICE; DELEGATION OF AUTHORITY.

(a) Whenever a complaint is made to the Building Inspector of the existence of a public nuisance in the Village, he or she shall promptly cause to be inspected the premises on which it is alleged that such public nuisance exists. Should the Inspector find that a public nuisance may exist and that the public health, safety or welfare may be in immediate danger, he or she shall promptly notify the Chief of Police and the Fire Chief. The Chief of Police, if he or she has not already done so, and the Fire Chief, if he or she has not already done so, shall cause to be inspected the premises on which it is alleged that such public nuisance exists. Written reports of the inspections and of the findings of the Chiefs with respect to the existence of a public nuisance and any immediate danger to the public health, safety and welfare, shall be filed with the Inspector. Should any one or more of the aforesaid officers find that a public nuisance exists and that the nature thereof is such as to require its summary abatement, it shall be the duty of the Inspector to cause photographs of such nuisance to be made and to file and keep in his or her office the written reports of the findings of the aforesaid officials. The Inspector shall then determine the person who, from the records in the County Auditor's office, owns the property, and immediately cause a written notice to be served on such person, either personally or by leaving a copy at the usual place of residence or business of such owner, or at the address of such owner shown in the County Auditor's records, or by mailing a copy to such owner at such place or address, by United States certified mail, return receipt requested. If service of written notice is unable to be perfected by any of such methods, then the Inspector shall cause a copy of the notice to be left with the person, if any, in possession of the premises on which it is alleged that such public nuisance exists. If there is no person in possession thereof, he or she shall cause a copy of the notice to be posted on the premises.

(b) The notice shall state, in brief, the findings of any one or more of the aforesaid officers, with respect to the existence of a public nuisance, and shall further state that unless the owner or owners thereof cause the abatement of the public nuisance within twenty-four hours after service of the notice, the same will be abated by the Village at the expense of such owner or owners.

(c) Any act, inspection or finding required to be made or carried out by any public official under this chapter, may be carried out by any of his or her subordinates assigned or directed by him or her to carry out such function. (Ord. 89-73. Passed 12-18-73.)

1476.03 NON-SUMMARY ABATEMENT; NOTICE; HEARING.

(a) Should any one or more of the officers referred to in Section 1476.02, after the inspection of the premises in or on which it is reported that a public nuisance may exist, be of the opinion that a public nuisance does exist, but that the nature thereof is not such as to require summary abatement, photographs and reports of his or her findings, the same as set forth in Section 1476.02, shall be made and filed with the Building Inspector. It shall be the duty of the Inspector, in such cases, to serve written notice on the person who, from the records in the County Auditor's office, appears to be the owner of the aforesaid property, by serving him or her personally or by leaving a copy at the usual place of residence or business of such owner or at the address of such owner shown in such Auditor's records, or by mailing a copy to such owner at such place or address, by United States certified mail, return receipt requested. If service of the notice is unable to be perfected by any of such methods, then the Inspector shall cause such notice to be published in a newspaper of general circulation in the Village, once each week for two consecutive weeks, and shall further cause a copy of the notice to be left with the person, if any, in possession of the premises in or on which it is alleged that such public nuisance exists, or, if there is no person in possession thereof, he or she shall cause a copy of the notice to be posted on the premises.

(b) The notice shall state, in brief, the findings of any one or more of the officers referred to in Section 1476.02, with respect to the existence of a public nuisance, and shall further state that unless the owner thereof causes the abatement of the public nuisance within thirty days after service of the notice, the same shall be abated by the Village at the expense of such owner. The owner may at any time after receipt of the notice make a request, in writing or in person, to the Inspector, to be furnished with a written list of the items which are alleged to constitute the public nuisance and which are alleged to be in need of repair and/or replacement.

(c) The owner may make immediate application in writing or in person to the Inspector for a building permit to undertake the repair or replacement of the items alleged to constitute the public nuisance. The Inspector, upon being furnished by such owner with the complete plans and specifications covering the repairs or replacements in conformity with the standards of Village ordinances, shall, upon approval of the plans and specifications, cause a building permit to be issued to such owner. The Inspector may grant more than thirty days to the owner in which to effect the repairs and/or replacements.

(d) The owner may, within fourteen days after receipt of the notice, make a demand, in writing, to the Inspector for a hearing on the question of whether, in fact, a public nuisance exists and/or whether more than thirty days should be granted to the owner to abate the nuisance. The hearing shall be held within ten days following receipt of the written demand and at least two days notice of the hearing shall be given to the owner. The hearing shall be conducted by the Board of Zoning Appeals. The Board may amend or modify the notice and/or order or extend the time for compliance by the owner with parts of the abatement notice by such date or dates as a majority of such Board may determine. A copy of the decision of the Board shall be promptly served upon the owner in the manner provided for in Section 1476.02. The decision of the Board shall be final and conclusive unless the owner files, within ten days after the aforesaid decision is rendered, an action in or appeal to a court of competent jurisdiction; otherwise, the same shall become final and conclusive at the termination of such action or appeal proceeding as determined by such court. (Ord. 89-73. Passed 12-18-73.)

1476.04 FAILURE OF OWNER TO ABATE; REMEDY OF VILLAGE.

Should a nuisance not be abated at the expiration of the time stated in the notice or within such additional time as the Building Inspector or the Board of Zoning Appeals may grant the owner, the Building Inspector shall have the right to enter upon the premises and to abate the nuisance found thereon. In abating such nuisance, he or she may go to whatever extent may be necessary to complete abatement of the same and, should it be practicable to sell or salvage any material obtained in the course of such abatement, he or she may sell the same at private or public sale at the best price obtainable and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be deposited in the General Fund of the Village and any difference between the amount so received and the cost of the abatement shall be levied as an assessment against the property in question, by Council, certified to the County Auditor and collected as any other assessment by the Village. Should the proceeds of the sale of such salvaged material exceed the cost of such abatement, the excess shall be paid to the owner of the premises in or on which such nuisance was abated, when his or her proper claim thereof is established. In abating such nuisance, the Inspector may call upon Village officials or employees for whatever assistance may be necessary or may, by private contract, obtain the abatement thereof, if such private contract may be let without any expense whatever to the Village. (Ord. 89-73. Passed 12-18-73.)

1476.05 REFUSAL TO OBEY ORDER OF BUILDING INSPECTOR.

No person who is able to obey a proper order issued by the Building Inspector under and pursuant to the terms of this chapter shall refuse or neglect to do so. (Ord. 89-73. Passed 12-18-73.)

1476.06 VERIFICATION OF NECESSITY OF ABATEMENT REQUIRED.

(a) No proceeding under this chapter may be maintained unless at least two of the following named officers find that a public nuisance in fact exists: the Chief of Police; the Fire Chief; the Building Inspector.

(b) In the event of a proposed summary abatement, no public nuisance shall be summarily abated until and unless all of the aforesaid officers find that the summary abatement of such nuisance is necessary. (Ord. 89-73. Passed 12-18-73.)

1476.07 INTERPRETATION OF CHAPTER.

This chapter shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the Village, but shall be deemed to be an enlargement of any authority existing by virtue of State statutes or any ordinance heretofore enacted by Council. (Ord. 89-73. Passed 12-18-73.)

1476.08 VIOLATIONS.

No person shall violate or fail to comply with any of the provisions of this chapter, or fail to comply with any notice issued by the Building Inspector under this chapter within the period stipulated in such notice, or fail to comply with any decision of the Board of Zoning Appeals made under authority of this chapter. (Ord. 89-73. Passed 12-18-73.)

1476.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.