

## CHAPTER 13

### NUISANCES

**Section 13-101. Definitions.** As used in this Chapter, the following terms have the following definitions:

- a. Nuisance Vegetation: “Nuisance Vegetation” includes:
  1. Trees, shrubs, bushes, weeds (as defined herein) or plants permitted to grow on premises, in a Village roadway or roadway right-of-way, or adjacent to any street or alley or other public way in a manner as to obstruct the view and endanger traffic conditions.
  2. Weeds (as defined herein), and dead, diseased, or dying trees or bushes, stumps and roots on land within the Village.
  3. Elm trees infected with Dutch Elm Disease or Ash trees infected with the emerald ash borer.
- b. Pests. Undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals, but does not include a feral cat, a “companion animal” as that term is defined in the Humane Care for Animals Act (510 ILCS 70/et seq.), “animals” as that term is defined in the Illinois Diseased Animals Act (510 ILCS 50/et seq.), or animals protected by the Wildlife Code (520 ILCS 5/et seq.)
- c. Rubbish. Any unsightly material, waste products, refuse, debris, trash, or waste lumber deposited, left, piled or scattered that may become a breeding place for insects, rodents, or vermin or that may give off unpleasant odors or create a health or fire hazard where located. This includes, but is not limited to, keeping or depositing on, or scattering over the violator's premises, or the premises of others, any of the following: (a) lumber, junk, trash, debris or garbage; (b) abandoned, discarded, or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.
- d. Weeds. An annual or perennial herbaceous plant of volunteer growth, not cultivated or useful for human food or enjoyment and shall include but not be limited to the following: jimson, burdock, ragweed, thistles of all kinds, cocklebur, barberry (tall, common, or other horticultural varieties), poison ivy, yellow dock, Indian Mallow, sweet clover, wild mustard (including black mustard and yellow mustard), May weed, lambs’ quarters, pig weed, beggar ticks, wild lettuce, shepherds purse, smart weed, sow-thistle, tumbleweed, dandelions, etc., any plant that, when in blossom, gives off an unpleasant or obnoxious odor or pollen irritating to human tissue and any plant growth that may conceal rubbish,

debris or filthy deposits or constitute a fire hazard when dry, and grass that is more than **six** inches (6”) in height, random growth or volunteer growth of bushes or brush that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry or any plant that causes or adds its influence in bringing on hay fever or other similar or noxious plant, and all plants fitting within the term “weeds” as used in the Illinois Municipal Code.

- e. Stagnant Water: any stagnant pool of water remaining or existing on any property under his control.

### **Section 13-102. Nuisances Declared**

Nuisance Vegetation, Rubbish, Weeds, Pests and Stagnant Water as defined in this Chapter are hereby declared to be nuisances. In addition, the term "nuisance" is defined to include any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

### **Section 13-103. Removal of Nuisance Vegetation, Rubbish, Weeds, Pests, and Stagnant Water by Owner and Occupants of Land**

It shall be unlawful to permit the existence of nuisance vegetation, rubbish, weeds, pests, stagnant water or any other nuisance defined in this Chapter or in the Illinois Municipal Code on any lots or tracts of land in the Village. It is the responsibility of the owner, occupant or lessee of any privately owned lot or tract of land in the Village to prevent the existence of nuisances thereon and to ensure that one’s property complies with the requirements herein.

### **Section 13-104. Removal of Nuisance Vegetation, Rubbish, Weeds, Pests, and Stagnant Water by Village**

- (a) In all cases where the owner, occupant or lessee of real estate on which there is nuisance vegetation, rubbish, weeds, pests, and/or stagnant water, shall (i) fail to cut or remove nuisance vegetation and/or weeds; (ii) fail to remove rubbish; (iii) fail to prevent or exterminate pests; (iv) fail to prevent or eliminate standing or stagnant water, after ten (10) calendar days' notice in writing, mailed by certified mail, return receipt requested, to the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the date of the notice, notifying him or her to (i) cut or remove nuisance vegetation; (ii) remove rubbish; (iii) prevent or exterminate pests; or (iv) to prevent or eliminate standing or stagnant water, then the Building Director, Code Enforcement Officer or other Village representative authorized by the corporate authorities, may cause the nuisance vegetation to be cut, trimmed or removed, or the rubbish removed, pests exterminated or removed, or to have standing or stagnant water removed and the entire expense thereof shall be chargeable to both the person who owns and the one who controls such real estate, to be collected by suit or otherwise, in addition to the penalty prescribed in this Chapter. The violation may be removed

or remedied by private contractors hired by the Village, or, at the discretion of the Building Director, after consultation with the Village President, by Village personnel. The ten (10) days above referenced shall begin from date of such mailing. In the alternative to mailing the notice, the notice may be hand-delivered by a Village police officer, and the ten (10) days will begin to run from the date of hand delivery.

- (b) The Village hereby establishes a charge, payable by the owner and/or person that controls the property (jointly and severally) to the Village, of one hundred dollars (\$100.00) per hour or greater if actual costs of the use of Village employees, equipment and fuel for removal of rubbish, pests, weeds, nuisance vegetation or stagnant water exceeds \$100.00 per hour. The corporate authorities of the Village hereby find that said charge is fair and reasonable to recompense the Village for its expenses. In the event the Building Director contracts with a third party for the removal of rubbish, pests, weeds, nuisance vegetation or stagnant water, the charge to the owner, occupant or lessee shall be the Village's out-of-pocket expenses, plus a twenty five dollar (\$25.00) service charge for administering the contract, which the corporate authorities find to be fair and reasonable to recompense the Village.
- (c) Any person, liable hereunder for payment of the foregoing expense to the Village, shall pay the full amount of said charge within ten (10) days after the date of mailing of a statement of the Village incurred charges, by certified mail, to the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the date of the removal services or said charge shall be delinquent. Failure to pay the charge within the time specified shall thereafter subject the violator to a penalty of ten percent (10%) of the unpaid amount of said delinquent charge, which shall be collected in addition to the delinquent charge.
- (d) In the event that the owner, occupant or lessee fails to pay the sum set forth in the notice described in Section 13-104 ( c ) within the ten (10) days after the date of said notice, said expense incurred by the Village and unpaid by the owner, occupant or lessee, shall constitute a lien upon the real estate, and the Village Clerk or other designee shall file a notice of lien in the office of the Recorder of Deeds of McHenry County and mail a copy of the lien to the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the date of, in compliance with all applicable laws and ordinances. The following procedure shall apply:
  - 1. Notice of Lien. The Village or the person performing the service by authority of the Village, in its, his or her own name, may file a notice of lien in the office of the recorder of deeds in the county in which the real estate is located. The notice of lien shall be filed within one year after the cost and expense is incurred. If, for any one property, the Village engaged in any nuisance abatement activity described in this Section 13-104 on

more than one occasion during the course of one year, then the Village may combine any or all of the costs of those activities into a single notice of lien.

The notice of lien shall consist of a sworn statement setting forth:

- a. A description of the real estate that sufficiently describes the parcel;
  - b. The amount of the cost and expense incurred or payable for the activities; and
  - c. The date or dates when such cost and expense was incurred by the village or someone working on behalf of the Village.
2. Release of Lien. Upon payment of the cost after the notice of lien has been filed as provided herein, the lien shall be released by the Village or person in whose name the lien has been filed, and the release may be filed of record by the owner/violator at his or her sole expense.
  3. Foreclosure of Lien. Subsequent to the filing of the above-described lien, the Village may cause to be filed a complaint for foreclosure of such lien, or upon becoming a defendant in a pending lawsuit affecting the premises or real estate, by answer to the complaint or in the nature of an intervening petition or cross-complaint the Village may proceed in its corporate name to foreclose such lien. An action to foreclose a lien under this Section must be commenced within two years after the date of filing notice of lien. The property subject to a lien arising under this article shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the monies owing the Village.
- (e) In addition to any other action authorized by this Chapter or by the Illinois Municipal Code, the Village may, to the extent permitted by law, bring suit to foreclose the lien or to sue the owner or lessee or occupant of the real estate or their agent, in a civil action to recover the money due for services rendered, plus all expenses and reasonable attorney fees to be fixed by the court. Any such judgment shall be enforced in accordance with law.
  - (f) In addition to the charges due, the Village is entitled to collect the costs of filing a notice of lien, foreclosing said lien and litigation costs, together with all office and legal expense incurred in connection with the collection of the amount due.

### **Section 13-105. Legal and Equitable Remedies**

In addition to the penalties and liens prescribed herein, the Village may avail itself of all legal and equitable remedies permitted by the Illinois Municipal Code and other statutes of the State to abate a nuisance, including, but not limited to, seeking preliminary and permanent injunctive relief.

**Section 13-106. Notice Form**

Notice to a violator may be, but is not required to be, in the form of Attachment A to this Chapter.

**Section 13-107. Wind-blown Refuse.**

It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles; it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind-blown or scattered.

**Section 13-108. Construction Noise.**

The making of any construction noise on any construction site which is detectable on any adjoining property is hereby declared a nuisance during the hours between 7:00 PM and 7:00 AM on Mondays through Saturdays and all hours on Sunday, and is hereby prohibited.

**Section 13-109. Skateboard Ramps.**

Skateboard ramps are hereby declared to be a nuisance; the construction, repair, maintenance and use of skateboard ramps in the Village is prohibited.

**Section 13-110. Loud Music, etc.**

It shall be unlawful to operate, play or permit the operation of any radio, receiving set, musical instrument, phonograph, tape or disc player, television set, drum, or any other machine or device for the producing or reproducing of sound in such a loud or raucous manner as to disturb the peace, quiet and comfort of the neighboring inhabitants.

**Section 13-112. Penalty.**

Any person who shall violate any provisions of this Chapter shall, on conviction thereof, be punished by a fine not less than one hundred dollars (\$100.00) and not to exceed seven hundred fifty dollars (\$750.00) for each violation. Each day during which a violation continues beyond the specified time for correction shall constitute a separate punishable offense. At the Village's option, the fines for certain of the offenses enumerated in this Chapter may be levied as set forth in Section 1-115 of this Municipal Code.

**ATTACHMENT A**

**VILLAGE OF OAKWOOD HILLS, ILLINOIS  
NOTICE OF NUISANCE VEGETATION, RUBBISH, PEST, OR STAGNANT WATER  
VIOLATION**

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(insert names and addresses of property owners and occupants)

PLEASE TAKE NOTICE that you have permitted [rubbish] [nuisance vegetation] [pests] [weeds] [stagnant water] to exist on the following property owned or occupied or otherwise controlled by you within the corporate limits of the Village of Oakwood Hills, in violation of Chapter 13 of the Code of Ordinances of the Village of Oakwood Hills.

The address of the property is \_\_\_\_\_, Oakwood Hills, Illinois.

The conditions constituting the violation are generally described as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby ordered to remove such [rubbish] [nuisance vegetation] [pests] [weeds] [stagnant water] within 10 calendar days of the date of this Notice.

Chapter 13 of the Municipal Code provides that any person violating its provisions may be subject to a fine of not less than \$ 100.00 nor more than \$750.00 for each day a violation is allowed to continue. If the Village must prosecute you in the Court for the violations described above, it will seek fines beginning from the date of this Notice. Chapter 13 of the Municipal Code also provides that if you fail to remove rubbish, nuisance vegetation, pests, weeds or stagnant water, the Village may do so, or may hire someone to do so, and may place a lien on the premises described in this Notice if you fail to pay for the work. If the Village itself performs the work, it will charge a minimum of \$100.00 per hour for the work.

Definitions of “nuisance vegetation”, “rubbish” and “pests” and “weeds” and “stagnant water” from Section 13-101 of the Municipal Code are found on the reverse side of this form.

This Notice is dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
Authorized Village Officer

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1. Trees, shrubs, bushes, weeds (as defined herein) or plants permitted to grow on premises, in a Village roadway or roadway right-of-way, or adjacent to any street or alley or other public way in a manner as to obstruct the view and endanger traffic conditions.
2. Weeds (as defined herein), and dead, diseased, or dying trees or bushes, stumps and roots on land within the Village.
3. Elm trees infected with Dutch Elm Disease or Ash trees infected with the emerald ash borer.

Pests. Undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals, but does not include a feral cat, a “companion animal” as that term is defined in the Humane Care for Animals Act (510 ILCS 70/et seq.) , “animals” as that term is defined in the Illinois Diseased Animals Act (510 ILCS 50/et seq.), or animals protected by the Wildlife Code (520 ILCS 5/et seq.)

Rubbish. Any unsightly material, waste products, refuse, debris, trash, or waste lumber deposited, left, piled or scattered that may become a breeding place for insects, rodents, or vermin or that may give off unpleasant odors or create a health or fire hazard where located. This includes, but is not limited to, keeping or depositing on, or scattering over the violator's premises, or the premises of others, any of the following: (a) lumber, junk, trash, debris or garbage; (b) abandoned, discarded, or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.

Weeds: An annual or perennial herbaceous plant of volunteer growth, not cultivated or useful for human food or enjoyment and shall include but not be limited to the following: jimson, burdock, ragweed, thistles of all kinds, cocklebur, barberry (tall, common, or other horticultural varieties), poison ivy, yellow dock, Indian Mallow, sweet clover, wild mustard (including black mustard and yellow mustard), May weed, lambs’ quarters, pig weed, beggar ticks, wild lettuce, shepherds purse, smart weed, sow-thistle, tumbleweed, dandelions, etc., any plant that, when in blossom, gives off an unpleasant or obnoxious odor or pollen irritating to human tissue and any plant growth that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry, and grass that is more than six inches (6”) in height, random growth or volunteer growth of bushes or brush that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry or any plant that causes or adds its influence in bringing on hay fever or other similar or noxious plant, and all plants fitting within the term “weeds” as used in the Illinois Municipal Code.

Stagnant Water: Any stagnant pool of water remaining or existing on any property under his control.