

CHAPTER 25

NUISANCES

ARTICLE I - GENERALLY

25-1-1 **SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the Village, for any person, firm or corporation within the limits of the Village to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place, to the prejudice of others.

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome, or impure, the water of any spring, river, stream, pond or lake, well, public or private, to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I) **Wells Unplugged.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled.

(J) **Burn-Out Pits.** To construct or operate any salt water pit or oil field refuse pit, commonly called a "**burn-out pit**" so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse.

(K) **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply or from one underground stratum to another.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the Village or within **one and one-half (1 ½) miles** of the Village limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the Village from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the Village.** To bring into the Village or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the Village so as to cause annoyance or discomfort to the residents thereof.

(W) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(X) **Motor Transport Engines.** To operate motor vehicle transport engines in the nighttime between the hours of **eight (8:00) o'clock P.M.** and **six (6:00) o'clock A.M.**, in any place in which a majority of the buildings, within a radius of **four hundred (400) feet** are used exclusively for residence purposes, excluding state and federal highways.

(Y) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(Z) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(See 740 ILCS Secs. 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this Village from declaring what shall be nuisances, and abating them within the Village limits.

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the Village if such use, keeping or maintaining shall be dangerous or detrimental to health.

25-1-3 **NOTICE TO ABATE.** Whenever the Zoning Administrator, Village Manager or the President finds that a nuisance exists, he shall direct the Public Health and Safety Trustee to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the Village Board of Trustees.
- (G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this Village will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 **HEARING.** Any person ordered to abate a nuisance may have a hearing with the Mayor or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the Village Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Mayor or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

25-1-5 **APPEAL.** Any party aggrieved by the decision of the Mayor may appeal to the Board of Trustees. Such appeal shall be taken by filing with the Village Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the Board of Trustees at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

25-1-6 **ABATEMENT BY VILLAGE.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this Village may perform the required action to abate. Any Village official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the Village Clerk who shall pay such expenses on behalf of this Village. **(See 65 ILCS Sec. 6/11-60-2)**

25-1-7 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The Village shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

**(See 65 ILCS Sec. 5/11-60-2 and 720 ILCS Secs. 5/47-5;
5/47-10 and 5/47-15)**

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the Village. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT; COST.** If the person so served does not abate the nuisance within **five (5) days**, the Mayor or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant. The charge for the first instance of abatement by mowing said overgrown grass and weeds shall be **Seventy-Five Dollars (\$75.00)** per hour for each hour spent mowing said grass and weeds plus **Fifty Dollars (\$50.00)** administrative fee. The charge for each instance of abatement thereafter shall be **One Hundred Dollars (\$100.00)** per hour for each hour of mowing plus **Fifty Dollars (\$50.00)** administrative fee.

25-2-6 LIEN.

(A) The charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded and a priority lien established. To perfect such a lien, the Village must, within **one (1) year** after the removal cost is incurred, file notice of lien in the office of the recorder in the County in which the underlying parcel is located or, if the underlying parcel is registered under the Torrens system, in the office of the Registrar of Titles of that county. The notice must consist of a sworn statement setting out:

- (1) a description of the underlying parcel that sufficiently identifies the parcel;
- (2) the amount of the removal cost; and
- (3) the date or dates when the removal cost was incurred by the Village.

If, for any one parcel, the Village engaged in any removal activity on more than one occasion during the course of **one (1) year**, then the Village may combine any or all of the costs of each of those activities into a single notice of lien.

(B) The removal cost is not a lien on the underlying parcel unless a notice is personally served on, or sent 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 removal activities. The notice must be delivered or sent after the removal activities have been performed, and it must:

- (1) state the substance of Section 11-20-15 of the Illinois Municipal Code authorizing the lien and the substance of any ordinance of the Village implementing Section 11-20-15;
- (2) identify the underlying parcel, by common description; and
- (3) describe the removal activity.

(C) Upon payment of the lien cost by the owner of the underlying parcel after notice of lien has been filed, the Village (or its agent) shall release the lien, and the release may be filed or recorded by the owner at his or her sole expense as in the case of filing notice of lien.

(D) The provisions of the Illinois Municipal Code, specifically Section 11-20-15, shall be followed and shall apply to all liens filed hereunder.

(E) A lien under this Section may be enforced by proceedings to foreclose as in the case of mortgages or mechanics' liens. An action to foreclose a lien under this Section must be commenced within **two (2) years** after the date of filing notice of lien unless a longer period is provided by law. The lien set forth herein shall be superior to all other liens and encumbrances, except tax liens.

(Ord. No. 11-12; 09-12-11)

(See 65 ILCS Secs. 5/11-20-6 and 5/11-20-7)

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.**
(A) The charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded and a priority lien established. To perfect such a lien, the Village must, within **one (1) year** after the removal cost is incurred, file notice of lien in the office of the recorder in the County in which the underlying parcel is located or, if the underlying parcel is registered under the Torrens system, in the office of the Registrar of Titles of that county. The notice must consist of a sworn statement setting out:

- (1) a description of the underlying parcel that sufficiently identifies the parcel;
- (2) the amount of the removal cost; and
- (3) the date or dates when the removal cost was incurred by the Village.

If, for any one parcel, the Village engaged in any removal activity on more than one occasion during the course of **one (1) year**, then the Village may combine any or all of the costs of each of those activities into a single notice of lien.

(B) The removal cost is not a lien on the underlying parcel unless a notice is personally served on, or sent 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 removal activities. The notice must be delivered or sent after the removal activities have been performed, and it must:

- (1) state the substance of Section 11-20-15 of the Illinois Municipal Code authorizing the lien and the substance of any ordinance of the Village implementing Section 11-20-15;
- (2) identify the underlying parcel, by common description; and
- (3) describe the removal activity.

(C) Upon payment of the lien cost by the owner of the underlying parcel after notice of lien has been filed, the Village (or its agent) shall release the lien, and the release may be filed or recorded by the owner at his or her sole expense as in the case of filing notice of lien.

(D) The provisions of the Illinois Municipal Code, specifically Section 11-20-15, shall be followed and shall apply to all liens filed hereunder.

(E) A lien under this Section may be enforced by proceedings to foreclose as in the case of mortgages or mechanics' liens. An action to foreclose a lien under this Section must be commenced within **two (2) years** after the date of filing notice of lien unless a longer period is provided by law. The lien set forth herein shall be superior to all other liens and encumbrances, except tax liens.

(Ord. No. 11-12; 09-12-11)

25-3-6 DISPOSAL OF REFUSE, RUBBISH AND GARBAGE. All refuse, rubbish, garbage, junk and other offensive matters shall be disposed of at a location and in a method that conforms to requirements of the Illinois Environmental Protection Act. No person shall store, deposit or permit to remain upon the ground or in any waterway, drainage ditch, or confined waters within the Village any refuse, garbage, rubbish, junk or other offensive matter that may attract or harbor flies, rodents, vermin and/or mosquitoes, that may create unsightliness or offensive odors, or that may create a health hazard or nuisance. No person shall burn any such refuse, rubbish, garbage, junk or other offensive matter if such burning would be in violation of the requirements of the Illinois Environmental Protection Act, or would create a visibility hazard on any street, alley, public walkway, or on private property other than the property on which the burning is performed, or would become a nuisance, annoyance or discomfort to any other person by the reason of the emission of smoke, fumes, fly ash, dust, soot, noxious odor, or other atmospheric pollution or discharge.

(See 65 ILCS Sec. 5/11-20-13 and 720 ILCS Sec. 5/47-10)

ARTICLE IV – WASTE MATERIAL DISPOSAL

25-4-1 **DIFFUSION OF WASTE MATERIAL.** It shall be unlawful for any person to cast, place, sweep or deposit anywhere within the corporate limits of the Village any garbage, rubbish, refuse or waste material in such a manner that it may be carried or deposited by the action of natural elements, such as sun, wind, rain or snow, into or upon any street, sidewalk, alley, sewer, parkway, ditch, drainage way, stream or other public place, or into or upon any occupied premises. **(Ord. No. 97-10; 11-10-97)**

25-4-2 **DEPOSIT OF OFFENSIVE MATTER PROHIBITED.** No pile or deposit of garbage, rubbish, refuse or waste material of any kind whatsoever, nor accumulation of any offensive or nauseous substance, shall be made within the corporate limits of the Village, nor shall any person unload, discharge or put upon or along the line of any railroad, or any street, highway, sidewalk, alley, sewer, parkway, ditch, drainage way or other public place within the Village, any manure, garbage, rubbish, refuse or waste material of any kind whatsoever, or other offensive or nauseous substance, nor shall any cars or trucks loaded with or having in or upon them any such material or substances, be allowed to remain or stand on or along any railroad, street or highway within the corporate limits of the Village. **(Ord. No. 97-10; 11-10-97)**

25-4-3 **DISPOSAL OF TREE LIMBS AND SHRUB CLIPPINGS.** No provision of this Article shall limit or restrict the disposal of tree limbs and shrub clippings as such may be provided in **Article IV** as amended from time to time. **(Ord. No. 96-14; 12-09-96)**

25-4-4 **COSTS.** At the direction of the Village Manager, the costs of removing any materials not in compliance with this Article shall be assessed to the person who is responsible for such materials. Any charge by the Village for employees of the Village used to remove any materials in violation of this Article shall be a charge of **Seventy-Five Dollars (\$75.00)** per hour with a **two (2) hour** minimum. **(Ord. No. 96-14; 12-09-96)**

ARTICLE V – NATURAL VEGETATION DISPOSAL

25-5-1 DISPOSAL. Residents within the Village corporate limits shall be allowed to dispose of only natural vegetation in the form of tree limbs and shrubbery trimmings in the area designated by the Village, and no other materials, including grass clippings or leaves, may be disposed of in the manner provided for herein. Disposal of materials pursuant to this Section is permitted only for those persons to dispose of materials only for residential and non-commercial purposes, and no person shall be allowed to dispose of any materials pursuant to this Section if such materials are generated by such person by or for any commercial purpose. The term “commercial purpose” shall mean any time when a person or business is compensated for the purpose of maintaining, trimming or disposing of any materials including those eligible for disposal in accordance with this Section.

25-5-2 RESTRICTIONS. The area designated by the Village is located north of the West Sewer Pond, or at such locations as may be designated by the Board of Trustees or the Trustee of Public Health and Safety. Disposal may only be made during the hours of **10:00 A.M. to 2:00 P.M.** on each Saturday during the months of April through October. The Village will allow disposal at other times only by permit obtained by a resident from the Village office. Dumping or disposal of any other material, including leaves or grass clippings, or bagging disposable material in any manner, shall be a violation of this Article.

25-5-3 COSTS. At the direction of the Trustee of Public Health and Safety, the costs of removing any materials not in compliance with this Article shall be assessed to the person who is responsible for such materials. Any charge by the Village for employees of the Village used to remove any materials in violation of this Article shall be a charge of **Seventy-Five Dollars (\$75.00)** per hour with a **two (2) hour** minimum.

25-5-4 PENALTY. Any person who refuses to comply with the regulations regarding disposal contained in this Article shall be fined as provided by **Section 1-1-20** of the Village Code, and the fine shall be in addition to any costs provided in **Section 25-5-3.**

(Ord. No. 05-01; 03-14-05)

ARTICLE VI - NOISE AS A NUISANCE

25-6-1 **PROHIBITED NOISE.** It shall be a nuisance and unlawful for a person to play, use, operate or permit to be played, used or operated, any radio, tape recorder, cassette player or other machine or device for reproducing sound, if it is located in or on any of the following:

(A) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare; or

(B) Any motor vehicle on a public street, highway or public space; and if the sound generated is audible at a distance of **thirty (30) feet** from the device producing the sound.

(C) Possession by a person or persons of any of the machines or devices enumerated in subsection (A) shall be prima facie evidence that such person operates, or those persons operate, the machine or device.

25-6-2 **ENFORCEMENT; POWERS OF ARREST OR CITATION.** Any authorized police officer shall issue a citation for any violation under this Section, except they may arrest for instances when:

(A) The alleged violator refuses to provide the officer with such person's name and address and any proof thereof as may be reasonably available to the alleged violator.

(B) When the alleged violator refuses to cease such person's illegal activity after being issued a citation.

(C) See **Section 1-1-20** for penalty.

ARTICLE VII - DANGEROUS AND UNSAFE PROPERTIES

25-7-1 **ADOPTION BY REFERENCE.** The Village may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the Village and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those building. Therefor, the Village does hereby adopt by reference the applicable provisions of Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1 governing dangerous and unsafe buildings.

ARTICLE VIII - PENALTIES AND SPECIAL ASSESSMENT

25-8-1 **SPECIAL ASSESSMENT.** In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq., and (iv) a lien has been filed of record by the municipality in the office of the recording in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

ARTICLE IX – VACANT BUILDINGS

25-9-1 **DEFINITION OF "VACANT BUILDING"**. A vacancy building is a building or portion of a building which is:

- (A) Unoccupied or unsecured; or
- (B) Unoccupied and secured by boarding or other similar means; or
- (C) Unoccupied and a dangerous structure; or
- (D) Unoccupied and condemned by the Village pursuant to applicable provisions of this Code; or
- (E) Unoccupied and has multiple code violations; or
- (F) Unoccupied and the building or its premises has been the site of unlawful activity within the previous **six (6) months**; or
- (G) Condemned by the Village and unlawfully occupied; or
- (H) Unoccupied for over **one hundred eighty (180) days** and during which time the Village Manager has issued an order to correct public nuisance conditions and same have not been corrected in a code compliant manner; or
- (I) Unoccupied for over **two (2) years**; or
- (J) Defined in **65 ILCS 5/11-20-15.1** as an "abandoned residential property," being a residential dwelling unit that has been unoccupied by any lawful occupant or occupants for at least **ninety (90) days**, and for which after such **ninety (90) day** period the Village has made good faith efforts to contact the legal owner or owners of the property or, if known, the agent of the owner, and no contact has been made.

But not including, unoccupied buildings which are undergoing construction, renovation, or rehabilitation and which are in compliance with all applicable ordinances, codes, legislation, and regulations, and for which construction, renovation or rehabilitation is proceeding diligently to completion.

25-9-2 **NUISANCE DECLARED.** Vacancy buildings that are indefinitely vacant and in a state of disrepair or boarded are public nuisances in that they contribute to the decrease in value of surrounding properties, precipitate disinvestment by neighboring owners, provide a location for criminal activity, undermine the aesthetic character of the neighborhood and Village, and have other undesirable effects.

25-9-3 **NUISANCE ABATEMENT.** The Village is authorized to perform or provide for property maintenance activities to abate the nuisance caused by a vacant building, including the following:

- (A) Cutting and removal of neglected weeds, grass, trees, and bushes as authorized by Article IX of Chapter 96 of the Village Code and **65 ILCS 5/11-20-7**;
- (B) Pest control activities, as authorized by **65 ILCS 5/11-20-8**;
- (C) Removal of infected trees as authorized by **65 ILCS 5/11-20-12**;
- (D) Removal of garbage, debris, and graffiti as authorized by **65 ILCS 5/11-20-13**, and
- (E) Removal, securing, and enclosing abandoned residential properties as authorized by **65 ILCS 5/11-31-1.01**.

25-9-4 CHARGES FOR NUISANCE ABATEMENT.

(A) **Collection of Costs.** The Village shall have the authority to collect from the property owner the costs incurred in performing the property maintenance activities to abate the nuisances described in **Section 25-9-3**. The Village shall send a bill for the cost to the property owner, his agent, legal representative, or occupant in legal possession or control of the premises.

(B) **Traditional Lien Procedure for Vacant Buildings.** If a bill sent pursuant to Subsection (A) is not paid in full within **thirty (30) days** of the date of the bill, the Village shall have the authority to file and record a lien against the property, pursuant to Section 11-20-15 of the Illinois Municipal Code, **65 ILCS 5/11-20-15**, and by completing the following steps:

- (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 (1) year** after the cost and expense is incurred. If, for any one property, the Village engaged in any nuisance abatement activity described in **Section 25-9-3** on more than one occasion during the course of **one (1) 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.

After recording, the notice of lien shall be sent by certified mail to the property owner, his agent or legal representative or occupant in legal possession or control of the premises and, if different, to the person who received the tax bill for the preceding year.

- (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 shall be recorded of record in the same manner as recording the notice of lien. The release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.
- (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 (2) years** after the date

of filing notice of lien unless otherwise allowed by law. 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.

(C) **Priority Lien Procedures for Abandoned Residential Property.**

The priority lien procedure described in this Subsection (C) shall apply to costs incurred for activities performed on abandoned residential properties, as defined in **Section 25-9-1(J)**. If a bill sent pursuant to Subsection (A) is not paid in full within **thirty (30) days** of the date of the bill, the Village shall have the authority to file and record a priority lien against the property, pursuant to Section 11-20-15.1 of the Illinois Municipal code, **65 ILCS 5/11-20-15.1**, in the following manner:

- (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 a priority 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 (1) year** after the cost and expense is incurred. If, for any one property, the Village engaged in any nuisance abatement activity described in **Section 25-9-3** on more than one occasion during the course of **one (1) 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 abandoned residential property real estate that sufficiently describes the parcel;
- (b) The amount of the cost incurred or payable for the activities;
- (c) The date or dates when such cost was incurred by the Village or someone working on behalf of the Village; and
- (d) A statement that the lien has been filed pursuant to one or more of the property maintenance activities described in Section 98.03 and authorized by **65 ILCS 5/11-20-7(d)**, **65 ILCS 5/11-20-8(d)**, **65 ILCS 5/11-20-12(d)**, **65 ILCS 5/11-20-13(e)**, **65 ILCS 5/11-31-1.01**, as applicable.

After recording, the notice of lien shall be sent by certified mail to the property owner, his agent or legal representative or occupant in legal possession or control of the premises and, if different, to the person who received the tax bill for the preceding year.

The Village may not file a lien if the lender has provided notice to the Village that the lender has performed, or will perform, remedial actions; provided, however, that the remedial actions must be performed or initiated in good faith within **thirty (30) days** of the lender's notice to the Village.

- (2) **Recordkeeping.** To enforce a lien pursuant to this Subsection (C), the Village must maintain contemporaneous records that include, at a minimum:
 - (a) a dated statement of a finding by the Village that the property has become abandoned residential property;

- (b) the date when the property was first observed to be unoccupied by any lawful occupant;
 - (c) a description of the actions taken by the Village to contact the legal owner of the property, or if known, any agent of the owner;
 - (d) a statement that no contacts were made with the legal owner or, if known, any agent of the owner;
 - (e) a dated certification by the Village official of the necessity and specific nature of the work performed;
 - (f) a copy of the agreement with the person or company performing the work and the rates and estimated cost of the work, if applicable;
 - (g) detailed invoices and payment vouchers for the work;
 - (h) a statement whether the work was competitively bid, and if so, a copy of all proposals submitted by the bidders.
- (3) **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 shall be recorded of record in the same manner as recording the notice of lien. The release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.
- (4) **Enforcement of Lien.** A lien under this Subsection (C) is enforceable by the Village, or entity or person who performs work on behalf of the Village, at the hearing for confirmation of the foreclosure sale of the abandoned residential property and is limited to a claim of interest in the proceeds of the sale. The priority lien is superior to all other liens and encumbrances, except tax liens.

(Ord. No. 11-12; 09-12-11)