

ORDINANCE #198

An Ordinance to Amend Chapter 16 Public Nuisance of the Municipal Code

Whereas the Village of Eagle is in the process of updating and bringing the Municipal Codes and Ordinances to current status,

And whereas Chapter 16 “Public Nuisance” of the Village of Eagle Municipal Code must be brought to current status, be it resolved that all previous versions of Chapter 16 Codes and Ordinances are repealed and replaced as follows:

**CHAPTER 16**

**PUBLIC NUISANCE**

16.01	Public Nuisance Prohibited
16.02	Definitions
16.03	Abatement of Public Nuisance
16.04	Junk Motor Vehicles & Motor Vehicle Accessories on Private Property
16.05	Penalty Provisions
16.06	Cost of Abatement
16.07	Clean Indoor Air
16.08	Disposal of Abandoned Property
16.09	Business and Industry

**16.01 PUBLIC NUISANCES PROHIBITED**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Eagle, Wisconsin.

**16.02 DEFINITIONS**

- (1) **PUBLIC NUISANCE** – 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.

- (2) *PUBLIC NUISANCE 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 subsection (1) of this section:
- (a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
  - (b) 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 twenty-four (24) hours after death.
  - (c) 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.
  - (d) All stagnant water in which mosquitoes, flies or other insects can multiply.
  - (e) Privy vaults and garbage cans which are not covered.
  - (f) All noxious weeds and other rank growth of vegetation.
  - (g) All animals running at large.
  - (h) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village limits in such quantities as to endanger the health of persons or ordinary sensibilities, or to threaten or cause substantial injury to property in the Village.
  - (i) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
  - (j) Any use of property, substances or things within the Village of Eagle emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
  - (k) All abandoned wells not securely covered or secured from public use.
  - (l) 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.
- (3) *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 coming within the definition of sub. (1) of this section:
- (a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

- (b) All gambling devices and slot machines.
  - (c) All places where intoxicating liquor or fermented malt beverages are sold, processed, possessed, stored, brewed, bottled, manufactured or rectified, without a permit or license, as provided for by State Statutes and the ordinances of the Village of Eagle.
  - (d) Any place or premises within the Village of Eagle where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly or intentionally violated.
  - (e) 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 of Eagle.
- (4) *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 provisions of subsection (1) of this section.
- (a) 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.
  - (b) All buildings erected, repaired or altered within the fire limits of the Village of Eagle, in violation of the provisions of the ordinances of the Village, relating to materials and manner of construction of buildings and structures within said district.
  - (c) 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 signs or signal, or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any device, sign or signal.
  - (d) All trees, hedges, billboards or other obstructions 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.
  - (e) All limbs of trees which project over and less than fourteen (14) feet above the surface of a public sidewalk or street, or less than ten (10) feet above any other public place.
  - (f) All use or display of fireworks, except as provided by the laws of the State of Wisconsin and ordinances of the Village.
  - (g) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
  - (h) All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.

- (i) All loud, discordant and unnecessary noises or vibrations of any kind.
- (j) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, growling or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (k) Keep, maintain or possess poisonous members of the animal kingdom for which specialized antitoxin/antivenom is needed to treat the poisonous effects.
- (l) Keep, maintain or possess reptiles capable of causing great bodily harm to human beings or domestic animals
- (m) 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.
- (n) All open and unguarded pits, wells, excavations or unused basements, freely accessible from any public street, alley or sidewalk.
- (o) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed, or which are not equipped with a device for opening from the inside.
- (p) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (q) Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin, relating to the storage of flammable liquids.
- (r) All snow and ice not removed from public sidewalks within twenty-four (24) hours at any time in which snowfall shall cease, or as directed by a Public Safety Officer; the same applied by either owner or occupant of the premises.
  - 1 The conducting of any junk business or the use of any open lot or vacant parcel of land or any part thereof, or any uncovered or exposed premises outside of a building as a junk yard or for the purpose of exposing any such junk for sale, or for the storage thereof.
  - 2 For the purpose of this ordinance, junk shall consist of scraps of old metal, glass, automobiles wholly or partially dismantled, or the parts thereof, or other partially dismantled machinery, or the parts thereof, or old boxes or other refuse matter.
  - 3 It is intended here in this ordinance that no violation of sub-section 1 occur where the junk is contained wholly within a building so as not to be visible outside of such building.
- (t) All unlicensed self-serving food and/or drink dispensing units, not located within an enclosed building.

16.03

ABATEMENT OF PUBLIC NUISANCES

- (1) INSPECTION OF PREMISES – Whenever a complaint is made to the Village President, he/she shall promptly notify the Chief of Police or Building Inspector, who shall forthwith inspect or cause to be inspected the premises complained of, and shall make a written report of his/her findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises, and shall file the same in the office of the Village Clerk.
- (2) SUMMARY ABATEMENT –
  - (a) NOTICE TO OWNER – If the inspecting officer shall determine 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 Chief of Police may serve notice on the person causing, permitting or maintaining such nuisance is caused, permitted or maintained, and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four (24) hours, and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
  - (b) ABATEMENT BY VILLAGE – If the nuisance is not abated within the time provided, or if the owner, occupant, or person causing the nuisance cannot be found, the Chief of Police shall cause the abatement or removal of such public nuisance.
  - (c) ABATEMENT BY COURT ACTION – If the inspecting officer shall determine 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/she shall file a written report of the findings with the Village Board, who shall cause an action to abate such nuisance to be commenced in the name of the Village, in the appropriate court.
  - (d) OTHER METHODS NOT EXCLUDED – Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the Village of Eagle, or its officials, in accordance with the laws of the State of Wisconsin.

16.04

JUNK MOTOR VEHICLES & MOTOR VEHICLE ACCESSORIES ON PRIVATE PROPERTY

- (1) DEFINITIONS – For the purpose of this section, the following definitions shall be applicable:
  - (a) ABANDONED MOTOR VEHICLE – A motor vehicle which, through disuse and failure to be used, remains in one location for a period of 30 days, or more, or a

motor vehicle which has been reported as stolen to any police department, or a motor vehicle which does not have affixed a current motor vehicle license.

- (b) JUNKED MOTOR VEHICLE – Any motor vehicle which is partially dismantled or wrecked and which cannot safely or legally be operated.
  - (c) MOTOR VEHICLE - Any self-propelled land vehicle which can be used for towing or transporting people or materials, including but not limited to automobiles, trucks, buses, motorized campers, motorcycles, motor scooters, tractors, snowmobiles, etc.
  - (d) MOTOR VEHICLE ACCESSORIES - Any part or parts of any motor vehicle.
  - (e) PERSON - Person shall include any individual, firm, partnership or corporation.
  - (f) PRIVATE PROPERTY - Any real property not owned by the Federal government, state, county, city, school board or other public subdivisions.
  - (g) REMOVAL – Removal shall mean the physical relocation of a motor vehicle to an authorized location.
- (2) *STORAGE PROHIBITED* –
- (a) No person owning or having custody of any abandoned or junked motor vehicle or motor vehicle accessories shall store or permit any such vehicle or accessories to remain on any private property within the Village for a period of more than thirty (30) days, and no person owning any private property in the Village, as determined from the tax assessment records of the Village, shall store or permit to remain any such vehicles or accessories on his property for a period of more than thirty (30) days. Such storage is hereby declared to be a public nuisance and may be abated or removed and penalties imposed as provided in this section. No such person shall be deemed to have violated this subsection until the expiration of the 72 hour period provided for in subsection (4)(d) herein.
  - (b) No person, after notification to remove any abandoned, or junked motor vehicle, or motor vehicle accessories from any private property has been given pursuant to this section, shall move the same to any other private property upon which such storage is not permitted or onto any public highway or other public property. Whenever the Chief of Police or any member of his/her department shall find or be notified that any such vehicle or accessories have been so removed, a 72 hour notice shall be given in the manner provided in subsection (4)(d) herein, and the same removed as provided in subsection (4)(d) herein, and the same removed as provided in subsection (5) herein. In addition, penalties may be imposed as provided in this section.
- (3) *EXCEPTIONS* – This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building, or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor

scooters and non-motorized campers provided such vehicles are stored in rear yard areas. Such business enterprises shall include auto dealers, auto junk yards, auto repair and auto body shops but shall not include automobile service stations or tire, battery and accessory sales stores.

(4) *ENFORCEMENT* –

- (a) *INVESTIGATION* – The police department on routine patrol or upon receipt of a complaint may investigate a suspected abandoned or junk motor vehicle or motor vehicle accessories and record the make, model, style and identification numbers and its situation.
- (b) *INITIAL NOTICE OF REMOVAL* – Whenever the Chief of Police or any member of his/her department confirms that any abandoned or junked motor vehicle or motor vehicle accessories have been stored or permitted to remain on any private property within the Village for more than thirty (30) days, the Police Department shall send by certified mail, or by personal service thereof, a Notice to the owner of record of such motor vehicle or accessories, as such owner can be ascertained by the exercise of reasonable diligence, and also to the owner of the private property, as shown on the tax assessment records of the Village, on which the same is located to remove said junked motor vehicle or motor vehicle accessories within ten (10) days. Such notice shall also contain the following additional information:
  - 1. Nature of complaint.
  - 2. Description and location of the motor vehicle and/or motor vehicle accessories.
  - 3. Statement that the motor vehicle or motor vehicle accessories shall be removed from the premises no later than ten (10) days from date of notification.
  - 4. Statement that the owner of the motor vehicle and/or motor vehicle accessories, or the owner of the private property on which the same is located may show cause for not removing such motor vehicle or motor vehicle accessories by stating the reasons in a letter of appeal to the Chief of Police within five (5) days from date of notification.
  - 5. Statement that removal from the location specified in the notification to another location upon which such storage is not permitted is prohibited and shall subject the person to additional penalties.
  - 6. Statement that if removal is made within the time limits specified, notification shall be given in writing to the Police Department.
  - 7. Statement of the penalties provided for non-compliance with such notice.
- (c) *APPEALS* – Receipt of a letter of appeal as set forth in (4)(b)4 above, shall defer action on removal of said motor vehicle or motor vehicle accessories until such appeal has been considered by a review board composed of the Chief of Police, Village Attorney and the Village President. The review board shall consider the facts of the appeal and shall render a decision within 10 days of receipt of the letter of appeal. The review board may, if it finds that public health, safety and morals

will not be adversely affected, waive the requirement for removal or extend the time for removal. If the board finds it is in the best interest of the Village and in order to protect public health, safety and morals it may order the motor vehicle or motor vehicle accessories to be removed within a period of not exceed 20 days from date of decision. A copy of such decision shall be sent, by certified mail, to the person making the appeal.

- (d) FINAL NOTICE OF REMOVAL – After the expiration of the 10 day time period specified in (4)(b)3 or the time period specified by the board of review in (4)(c), the Police Department shall place a notice in a conspicuous place on the motor vehicle or motor vehicle accessories setting forth briefly the applicable provisions of this section, date of notice, and specifying that unless the vehicle is removed to a lawful place of storage within 72 hours it will be removed under the authority of this section. In the event the Police Department is prevented from or is otherwise unable to place the above notice in a conspicuous place on the motor vehicle or motor vehicle accessories, the Police Department shall send such notice by certified mail to or personally serve the owner of the vehicle or accessories and/or the owner of the property.

(5) AUTHORITY FOR REMOVAL –

- (a) If the abandoned or junked motor vehicle or motor vehicle accessories are not removed within the time period specified in (4) (d), the Chief of Police or any member of their department designated by them is hereby authorized to requisition, at Village expense, a private towing company to remove the vehicle to a lawful place of storage.
- (b) The towing company shall assume full responsibility of all vehicles removed under the terms of this section and may dispose of same in any manner as prescribed by Wisconsin Statutes.
- (c) All costs associated with the removal of the junked motor vehicle or motor vehicle accessories shall be borne by the property owner

16.05 PENALTY PROVISIONS –

- (1) Any person who shall violate any of the provisions of this ordinance shall, upon conviction thereof, be subject to a penalty as follows:
- (a) FIRST OFFENSE – PENALTY – Any person who shall violate this ordinance shall, upon conviction thereof, forfeit not less than \$5.00 nor more than \$300.00, together with the costs of prosecution or shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 90 days.
- (b) SECOND OFFENSE – PENALTY - Any person who shall violate any of the provisions of this ordinance who has been previously convicted thereof, shall, upon conviction thereof, forfeit not less than \$5.00 nor more than \$300.00 for each offense, together with the costs of prosecution and in default of payment of such

forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed six (6) months.

- (2) Where there is more than one vehicle involved each vehicle shall constitute a separate offense. Each day of violation of this section continues shall also constitute a separate offense.
- (3) Any person who has been charged with a violation of this section may appear at the Village Hall of the Village of Eagle within 72 hours, and may be permitted to enter into a stipulation with the Village, represented by the Village Attorney, for a disposition of the violation. Such stipulation may provide for a plea or stipulation of guilt or no contest and a forfeiture of a deposit of money in the amount of \$25.00 as a penalty for each offense of subsection 16.05(1)(a) herein, or \$50.00 as a penalty for each offense of subsection 16.05(1)(b) herein.

#### 16.06 COST OF ABATEMENT

In addition to any other penalty imposed by this ordinance 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 unpaid cost shall be assessed against the real estate as a special charge.

#### 16.07 CLEAN INDOOR AIR

Except as otherwise specifically provided in this code, the statutory provisions of section 101.123 of the Wisconsin Statutes, describing and defining regulation of smoking, exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment are hereby adopted and by reference made a part of this code as if fully set forth herein. Any act required to be performed or prohibited by any regulation incorporated herein by reference is required or prohibited by this code. Any future amendments, revisions or modifications of the statutory regulations in section 101.123 Wisconsin Statutes are incorporated herein and are intended to be made a part of this code in order to secure to the extent legally practicable uniform state wide regulations of Clean Indoor Air.

Any person who willfully violates the provisions of this ordinance after being advised by an employee of the facility that smoking in the area is prohibited or any person in charge or his or her agent who willfully fails to comply with this code shall forfeit not less than \$10.00 for each separate violation.

#### 16.08 DISPOSAL OF ABANDONED PROPERTY

- (1) METHODS OF DISPOSAL –

- (a) The Village of Eagle may dispose of any personal property which has been abandoned, or remained unclaimed for a period of thirty (30) days after taking possession of the property by the Village. Disposal of personal property shall be in a manner prescribed as listed below:
  1. Public auction.
  2. Sealed bids.
    - a. Advertisement of sealed bids shall be in a manner prescribed by the appropriate department head.
    - b. Acceptance of the bid by the Village shall be in writing by the appropriate department head.
  3. Destruction.
  4. Return to rightful owner.
  5. Transfer to appropriate governmental agency.
  6. Holding a public sale by an organization and the payment to said organization of a reasonable commission from the sale proceeds with the balance being paid to the Village.
  7. Return to the person(s) who delivered the item(s) to the Village if requested and no rightful owner can be located.
  8. Any other means determined by the Village Board to be in the best interest of the Village and/or authorized by statute.

(2) RECORD OF DISPOSAL –

- (a) The Village shall maintain an inventory of such property, a record of date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than two (2) years from the date of disposal of the property.

16.09 BUSINESS AND INDUSTRY

All businesses within the Village of Eagle must abide by the following guidelines;

Guidelines

- (a) Noise: Sounds produced by businesses and industries must not persistently distract from other commercial enterprises or produce momentary noise of a sharp or alarming nature between 9:00 p.m. and 6:00 a.m. Operations near residences should run in awareness of occupant’s expectations for peace, rest and relaxation.
- (b) Odor: Except to comply with sanitation requirements, businesses and industries shall not emit fumes of an acrid, toxic, or pungent nature.
- (c) Outdoor Storage: Outdoor storage is permitted but items stationary more than thirty (30) days must be concealed from primary rights-of-way by appropriate fencing or landscaping.

- (d) Receptacle Siting: Open or closed topped refuse containers (i.e. dumpsters) are allowed providing they are not filled above the top edge and are clean and painted on the exterior. They shall be situated in an orderly manner entirely on the property.
- (e) Vehicle Siting: All vehicles that are required to be licensed by the State Department of Transportation will be so registered except for maintenance and yard equipment necessary to the business provided that it does not leave the property. All vehicles must be in running/working order and operable. Businesses will, where possible, not park maintenance and yard equipment in front of buildings without landscape or fence shielding.
- (f) Aesthetics: Businesses will be well maintained with exteriors free from rust, decay, and peeling or fading.
- (g) Environment: Adjacent to a state park as the Village of Eagle is, requires that business and industry operate in accordance with all applicable local, state and federal environmental rules and regulations. In general, any disturbance of natural flora or fauna for new construction will only be done after consultation with the Village Planning Commission.

Adopted this 12<sup>th</sup> day of November, 2009.

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Richard Spurrell, Village President

ATTEST:

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Shirley K. Mealy, Village Clerk