

Chapter 50

NUISANCES*

Sec. 50.100. Things prohibited.

Sec. 50.101. Other prohibited nuisances.

Sec. 50.102. Property Maintenance.

Sec. 50.103. Loud, Disturbing Noises Prohibited.

Sec. 50.104. Chronic Nuisance Premises.

Sec. 50.105. Accumulation of used motor vehicles.

* **Cross References**--Health and sanitation, ch. 38; mobile homes, ch. 46; solid waste, ch. 66; utilities, ch. 86.

Sec. 50.100. Things prohibited.

The following acts, omissions, places, conditions and things are 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 other provisions of this Code:

- (1) 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's safety.
- (2) All buildings erected, repaired or altered within the fire limits in violation of the provisions of ordinances relating to materials and manner of construction of buildings and structures within that district.
- (3) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, signal or sign.
- (4) 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.
- (5) All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street or less than ten feet above any other public place.
- (6) All buildings or structures so old, dilapidated or out of repair as to be dangerous and unsafe, unsanitary or otherwise unfit for human use.
- (7) All abandoned and wrecked or dilapidated motor vehicles, buses, railroad cars and house trailers.
- (8) All wires over streets, alleys or public grounds which are strung less than 13 feet above the surface.
- (9) All loud, discordant and unnecessary noises or vibrations of any kind which tend to cause or create a disturbance.
- (10) All obstructions of and excavations in or under streets, alleys, sidewalks or crosswalks, except as permitted by ordinance or which, although being in accordance with ordinance, are kept or maintained for an unreasonable or illegal length of time after their purpose has been accomplished.

- (11) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (12) All piles of dirt, wood or rubble located upon any property within the Village of Weston with the following exceptions:
 - a. Dirt, wood or lumber which is being actively used in connection with an ongoing construction project.
 - b. The storage of topsoil, fill material or lumber on the premises of a lumberyard, contract or storage yard or similar type establishment providing such business is a permitted use under the village zoning code.
 - c. The temporary storage of dirt, wood or lumber for a period not exceeding 90 days following the completion of a private subdivision development or construction project. In the event such material is not completely removed from the premises within 90 days by the owner of the property or the contractor responsible for the construction, the village shall cause the material to be removed with all costs associated with said removal to be assessed against the owner's property as a special charge pursuant to Wis. Stats. § 66.60(16).

(Code 1982, § 4.156(1); Ord. of 10-16-2000(2), § 1)

Sec. 50.101. Other prohibited nuisances.

In addition to the acts, omissions, places, conditions and things declared to be public nuisances affecting peace and safety in section 50.100, the following are declared to be a public nuisance:

- (1) All abandoned refrigerators, iceboxes and other containers having airtight doors or covers from which the doors or other covers have not been removed or which are not equipped with a device for opening from the inside.
- (2) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather obstructing traffic and free use of the streets or sidewalks.
- (3) Repeated or continuous violations of the ordinances of the village or the laws of the state relating to the storage of flammable liquids.

(Code 1982, § 4.156(3))

Section 50.102 Property Maintenance Code

(a) *Title.* This section shall be known as "The Property Maintenance Code," and may be referred to in this section as "this code."

(b) *Findings and declaration of Policy.* It is hereby found and declared that there exist, in the Village, structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the Village. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, these conditions will grow and spread and will necessitate the expenditure of large amounts of public funds to correct and eliminate such conditions, that by reason of timely regulations and restrictions contained in this code, the desirability and amenities of residential and nonresidential uses and neighborhoods may be enhanced and the public health, safety and welfare protected and fostered.

(c) *Purpose.* The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.

(d) *Definitions.* The following words and terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

(1) *Blighted Property.* Any property on which there exists any one or more of the following conditions or activities is a blighted property for purpose of this chapter:

a. *Abandoned building or structure.*

1. A building or structure which is not occupied, inhabited, used, or secured. For purposes of this Chapter, a building or structure is unsecured when it is unlocked or the public can gain entry without the consent of the owner.
2. Any partially constructed, reconstructed or demolished building or structure upon which work is abandoned. Work is deemed abandoned when there is no valid and current building or demolition permit or when there has not been any substantial work on the project for six months.

- b. *Attractive Nuisance.* Property which is in an unsecured state so as to potentially constitute an attraction to children, a harbor for vagrants, criminals, or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful act;
- c. *A Building or Structure Which is in a State of Disrepair.*
 - 1. Any building or other structure which by reason of rot, weakened joints, walls, floors, underpinning, roof, ceilings, or insecure foundation, or other cause has become dilapidated or deteriorated.
 - 2. Any building or other structure with exterior walls and /or roof coverings which have become so deteriorated as to not provide adequate weather protection and be likely to, or have resulted in, termite infestation or dry rot.
 - 3. Buildings or structures with broken or missing windows or doors which constitute a hazardous condition or a potential attraction to trespassers. For purposes of this chapter “window” shall include any glazed opening, including glazed doors, which upon a yard, court, or vent shaft open unobstructed to the sky.
 - 4. Buildings or structures including, but not limited to, walls, windows, fences, signs, retaining walls, driveways, or walkways which are obsolete, broken, deteriorated, or substantially defaced to the extent that the disrepair visually impacts on neighboring property or presents a risk to public safety. For purposes of this chapter “defaced” includes, but is not limited to, writings, inscriptions, figures, scratches, or other markings commonly referred to as “graffiti” and peeling, flaking, blistering, or otherwise deteriorated paint.
- d. *Property Inadequately Maintained.*
 - 1. Property which is not kept clean and sanitary and free from all accumulations of offensive matter or odor including, but not limited to, overgrown or dead or decayed trees, weeds or other vegetation, rank growth, dead organic matter, rubbish, junk, garbage, animal intestinal waste and urine, and toxic or otherwise hazardous liquids and substances and material. For the purposes of this section the term “rubbish” shall include combustible and noncombustible waste materials, except garbage; and the term shall also include the residue from the burning of wood, coal, coke, and other combustible material; and the term shall also include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, hay, straw, tin cans, metal, mineral matter, glass, crockery, and dust; and the term shall also include animal feed and the products of and residue from animal quarters.
 - 2. Property which constitutes a fire hazard or condition considered dangerous to the public health, safety, and general welfare.
 - 3. Property which is likely to or does harbor rats or other vectors, vermin, feral pets, or other non-domesticated animal nuisances.

4. Property which substantially detracts from the aesthetic and economic values of neighboring properties including, but not limited to, personal property and wares and foodstuffs, premises garbage and refuse receptacles, and commercial and industrial business activities which are inadequately buffered from any street, sidewalk, or other publicly trafficked area or such buffering which is inadequately maintained.
5. Landscaping which is inadequately maintained or which is not installed as required by village codes or any permit issued in accordance with such codes.
6. Matter including, but not limited to, smoke, odors, dust, dirt, debris, fumes, and sprays which is permitted to be transported by wind, or otherwise upon any street, course, alley, sidewalk, yard, park, or other public or private property and which is determined to be a violation of federal, state, regional, or local air quality regulations.
7. Property including, but not limited to, building façade, window, doorway, driveway, walkway, fence, wall, landscaped planter or area, sidewalk, curb and gutter, and edge of street pavement on which dirt, litter, vegetation, garbage, refuse, debris, flyers, or circulars have accumulated.
8. Property on which a swimming pool, pond, stream or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted. "Polluted water" is defined for the purpose of this chapter, as water which contains bacterial growth, remains of garbage, refuse, debris, papers and any other foreign matter or material which constitutes an unhealthy or unsafe condition.
9. Parking lots, driveways, paths, and other areas used or intended to be used for commercial and industrial business activities including, but not limited to, dismantling, processing, transferring, handling, transporting, storing, compounding, or assembling which are inadequately maintained and pose a risk of harm to public health or safety including, but not limited to, unpaved surfaces which generate fugitive dust and paved surfaces with cracks, potholes, or other breaks.
10. Property on which recyclable materials are openly stored. For the purposes of this chapter, "open storage" means storage on private property other than in a completely enclosed building. Materials shall be deemed to be held in "open storage" even though screened from public view, or view of residents of adjacent property, by a fence or other such partition.
11. Property which is not securely fenced or adequately lighted to prevent illegal access and activity related to the dumping of garbage, waste, debris and litter. "Recyclable materials" includes

any materials, goods, vehicles, machinery, appliances, product or article, new or used, which is suitable for reuse.

e. *Property Which Creates a Dangerous Condition.*

1. Property having a topography, geology, or configuration which, as a result of grading operations, erosion control, sedimentation control work, or other improvements to said property, causes erosion, subsidence, unstable soil conditions, or surface or subsurface drainage problems as to harm or pose a risk of harm to adjacent properties.
2. Property where on any condition or object obscures the visibility of public street intersections to the public so as to constitute a hazard, including but not limited to, landscaping, fencing, signs, posts, or equipment.
3. Conditions which due to their accessibility to the public pose a hazard including, but not limited to, unused and broken equipment, abandoned wells, shafts, or basements, hazardous or unprotected pools, ponds, or excavations, structurally unsound fences or structures, machinery which is inadequately secured or protected, lumber, trash, fences or debris that may pose a hazard to the public, storage of chemicals, gas, oil, or toxic or flammable liquids.

(2) *Deterioration.* The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating and applied in a workmanlike manner.

(3) *Elements.* Any element, whether created by nature or by man, which, with reasonable foreseeability could carry litter from one place to another. Elements shall include, but not be limited to, air current, rain, water current and animals.

(4) *Exposed to Public View.* Any premises, or any part thereof, or any building, or any part thereof, which may be viewed by the public.

(5) *Exterior of the Premises.* Open space on the premises outside of any building thereon.

(6) *Extermination.* The control and elimination of insects, rodents and vermin.

(7) *Garbage.* Decayed and decomposed animal and vegetable waste resulting from the handling, preemption, cooking and consumption of food. (See also Refuse and Rubbish)

(8) *Infestation*. The presence of insects, rodents, vermin or other pests on the premises, which constitute a health hazard.

(9) *Litter*. Includes any uncontainerized man-made or man-used waste which, if deposited within the Village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the citizens of the Village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal or nauseous or offensive matter of any kind or any object likely to injure any person or create a traffic hazard.

(10) *Mixed Occupancy*. Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses or used as a hotel.

(11) *Nuisance*.

- a. Any public nuisance, as defined by statute or this Chapter.
- b. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.

(12) *Operator*. Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.

(13) *Owner*. Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

(14) *Park*. A public or private park, reservation, playground, beach, recreation center or any public park private area devoted to active or passive recreation or any other area under the supervision of the Village.

(15) *Parking lot*. Any private or public property with provisions for parking vehicles to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.

(16) *Premises*. A lot, plot or parcel of land, including the buildings or structures thereon.

(17) *Private Premises.* Any dwelling, house, building, or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or appurtenant to such dwelling house, building or other structure.

(18) *Public Place.* All streets, boulevards, avenues, lanes, alleys or other public ways and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.

(19) *Refuse.* All decayed and decomposed solid waste, except body wastes, including, but not limited to, garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes. (See also Garbage and Rubbish)

(20) *Rubbish.* Solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials. (See also Garbage and Refuse)

(e) *Applicability.* Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, mobile home park, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code.

(f) *Duties and Responsibilities of Owners and Operators.*

(1) *Maintenance of Exterior of Premises.* The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians, or any other person utilizing the premises, and free of unsanitary conditions. Any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards, which include, but are not limited to, the following:

1. Refuse, such as brush, weeds, broken glass, stumps, obnoxious growths, filth, garbage, trash and debris.
2. Natural growth, such as dead and dying trees and limbs or other natural growth, which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.

3. Overhangs, such as loose and other hanging objects, which, by reason of location above ground level, constitute a danger of falling on the persons in the vicinity.

4. Sources of infestation.

5. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor.

(2) *Storage of Commercial and Industrial Material.* There shall not be stored or used at any location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under ch. 94 of the Village Code for the premises.

(3) *General Maintenance.* The exterior of every commercial structure or accessory structure, except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, loose boards or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blighting influences.

(g) Litter Control.

(1) *Litter Collections and Storage Area.* Every owner, occupant or lessee of a building used for residential, business or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this subsection.

(2) *Duty to Collect Litter Before it is Carried From the premises.* All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the litter is allowed to be removed from the premises by the elements.

(3) *Neglected Premises Visible to the Public.* It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonable clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.

(4) *Areas Around Business Premises.* The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings,

apartment buildings, housing projects, gas stations and hospital and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard to the condition or appearance of such premises so as to permit it to accumulate litter.

(5) *Loading and Unloading Docks.* The person owning, operating or in control of loading or unloading docks shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.

(6) *Construction Sites.* The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each workday and placed in containers, which will prevent litter from being carried from the premises by the elements.

(7) *Maintaining Sidewalks and Alleys.* Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper, waste, snow and ice. This paragraph shall not apply to sidewalks maintained by the Village as provided in Chapter 70 of the Village Code.

(8) *Abandoned Garbage.* It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal, to allow that refuse, waste or garbage to remain uncollected for longer than 7 days or, in any case, until after that refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public place.

(9) *Animal Excreta.*

a. *Allowing Discharge Regulated.* It is unlawful for any owner, keeper or walker of any dog or cat to have his dog or cat discharge such animal's excreta upon any public or private property within the Village other than the property of the owner of such dog or cat if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property.

b. *Carrying Feces Scoop Required.* No person shall walk a dog beyond the limits of his own property without carrying or having in his possession scoop, bag or other items designed to pick up and remove dog feces; and, further, it is

unlawful for any person to dispose of the dog feces on public or private property other than his own.

c. *Exception.* This subsection shall not apply to blind persons having control of guide dogs.

(h) *Lawn and Yard Maintenance*

(1) *Definitions.* The terms used herein are defined as follows.

a. *Turf Grass.* Grass commonly used in regularly cut lawns or play areas such as, but not limited to, blue grass, fescue and rye grass blends.

(2) *General Requirements.* The owner or occupant of any lot or parcel in the Village which is 5 acres or less in area shall install and maintain landscaping, plantings and other decorative surface treatments, including turf grass, so as to present an attractive appearance in all court and yard areas in accordance with generally accepted landscaping practices in north central Wisconsin. For all new residential construction in the village, lawns shall be installed within 1 (one) year of the occupancy issuance date. For all new commercial and industrial construction, landscaping and lawn shall be installed 18 (eighteen) months from the issuance of the building permit. Lawns shall be maintained to a height not to exceed 8 (eight) inches. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and the Village.

a. *Mowing required.* No person owning property within the village shall permit to grow or pollinate upon this premises any weeds, grasses or brush which cause or produce hay fever in human beings, exhale unpleasant or noxious orders or may conceal filthy deposits or provide a place for the accumulation of trash or litter. In order to prevent such growth and pollination, it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses, weeds and brush exceeding 8 (eight) inches in height. The provisions of Section 66.0407 of the Wisconsin Statutes are incorporated herein by reference.

b. *Mowing by village.* It shall be the duty of the weed commissioner to enforce this section, and if any person shall fail to comply herewith, the commissioners shall, after 5 (five) days' written notice to the owner, cause the premises to be mowed and report the cost thereof in writing to the village clerk in the manner provided in Section 66.0517 of the Wisconsin Statutes. Such charge shall be spread on the tax roll as a special tax to be collected in the same manner as other taxes unless such lands are exempt from taxation and shall be defined by the Village Board in the Village Schedule of Fees.

(3) *Weeds and Plants Prohibited.* The owners and occupants of all lawns shall destroy all of the following weeds and plants:

- a. Canada Thistle and all other thistle varieties
- b. Leafy Spurge
- c. Field Bindweed (Creeping Jenny)
- d. Purple Loosestrife
- e. Multiflora Rose
- f. Burdock
- g. Ragweed
- h. Garlic Mustard
- i. Goldenrod
- j. Bull Thistle
- k. Poison Ivy, Poison Oak and Poison Sumac
- l. All weeds enumerated in Sec. 66.955 and 66.96, Wis. Stats.

(i) *Enforcement.* This section shall be enforced by the Building Inspector/Zoning Administrator or other Village appointee. In addition, the Police Chief shall enforce sub. (7) above and the Weed Commissioner or other Village appointee shall enforce (8) above.

(j) *Penalty.* Any person who violates, disobeys, neglects or refuses to comply with any of the provisions of this section shall be subject to a forfeiture as provided in sec. 1.111 of this Code.

(Ord. of 1-13-2005; Ord. of 5-24-2007; Ord. of 9-19-2008)

Sec. 50.103 Loud, Disturbing Noises Prohibited

(a) *Loud, disturbing noises prohibited generally.* It shall be unlawful for any person to create or assist in creating any unreasonably loud and disturbing noise in the Village of Weston (see also Section 50.100 Things prohibited).

(b) *Measurement.* For the purpose of determining db(A)'s as referred to in this Ordinance, the noise shall be measured on the A-weighting scales on a sound level meter of standard design and quality having characteristics established by the American Standards Institute and shall be measured at the complainants property line.

(c) *Residential Zones.*

(1) It shall be unlawful to carry on the following activities in any residentially zoned area of the Village:

- a) The operation of construction machinery between the hours of 8:00 p.m. and 6:00 a.m.
- b) The operation of household power tools between the hours of 10:00 p.m. and 6:00 a.m.
- c) The operation of lawn mowers, chain saws, powered garden equipment and other domestic tools out-of-doors between the hours of 10:00 p.m. and 6:00 a.m.
- d) Working on vehicles or revving vehicle motors between the hours of 10:00 p.m. and 6:00 a.m.
- e) Musical bands practicing in residential areas between the hours of 8 p.m. and 7 a.m.
- f) Any mechanical noise which registers more than 85 db(A) for 4 consecutive hours at the nearest complainant's property line will be probable cause for a violation.
- g) This section shall not apply to emergency operations designed to protect the public health and safety.

In residential zones, it shall be unlawful for any person to make or engage in any unreasonably loud and raucous noise, yelling, screaming, shouting, hooting, whistling, or singing between the hours of 10:00 p.m. and 6:00 a.m. A noise shall be presumed to be unreasonably loud and raucous, if it is plainly audible within a residence and measures 85 db(A) or more at the complainants property line. There shall be excepted from this provision any organized sporting events, fairs, carnivals, or similar activities. The person(s) in violation of this ordinance shall be ordered to reduce the noise to acceptable levels immediately by the monitoring officer.

(d) *Construction Noise.* Construction equipment in all zones may be operated between the hours of 6:00 a.m. and 8:00 p.m.

(e) *Business Deliveries Adjacent to Residential Zoning Prior to 6 a.m.*

(1) Any business deliveries received prior to 6 a.m. to a business adjacent to a residentially zoned area of the Village must follow the subsequent guidelines:

- a) Staging of trucks for early delivery must be silent. No engine idling and horns must be turned off until delivery time if waiting in the parking lot.
- b) Horns cannot be used to signal arrival.
- c) All off loading must take place below 60 db(A), at point source, and vehicles must be silent during delivery (no idling).
- d) Outside off loading cannot include any dumping action that causes loud or sudden noises.
- e) Back-up alarms must be used at the reduced sound level if equipped.
- f) When possible, deliveries should take place on the side of the building away from the residentially zoned district.

(f) *Non-residential zoning districts adjacent to Residential zoning districts.* It shall be unlawful for any non-residentially zoned property adjacent to a residentially zoned property to operate their business at or over 85 db(A) for four consecutive hours measured at the complainants property line between the hours of 10:00 p.m. and 6:00 a.m. Decibel readings over 110 db(A) at the complainants property line will be subject to automatic citation.

(g) *Schools, churches, hospitals.* The creation of any excessive noise on any street or property adjacent to any school, institution of learning, or church while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital, is prohibited.

(h) *Enforcement.* Enforcement of this ordinance shall be at the discretion of the Everest Metro Police Department or Village of Weston staff on the basis of complaints filed with the Village of Weston or the Everest Metro Police Department. In all non-residential zones, the violator shall be given 30 days from written notice of his violation to reduce the sound pressure levels to acceptable levels. Decibel readings over 110 db(A) at the complainants property line will be subject to automatic citation.

(i) *Exceptions.* Operation of emergency equipment and equipment used to comply with state mandates for a safe environment shall be exempt from this ordinance. Snowblowers not operated on a commercial basis shall be exempt from this ordinance when used to gain access to a village street. Garbage and recycling trucks shall be exempt. (Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the Village of Weston.)

(j) *Appeals.* The Village Board may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this ordinance for existing businesses and industries.

(k) *Penalties.* Failure to comply with the provisions of this ordinance shall be punished by a minimum fine of \$75.00, not to exceed \$500.00. Each day the condition exists shall constitute a new and separate offense.

(Ord. of 5-18-2006)

Sec. 50.104 Chronic Nuisance Premises

Sec. 50.104 Chronic Nuisance Premises

(a) *Declaration.* The Board of Trustees finds that from time to time certain premises in the Village of Weston require a disproportionate amount of Village resources (including public safety services provided by the Everest Metro Police Department) to be devoted to addressing various nuisances, criminal activities and other incidents that occur thereon. Often this disproportionate devotion of Village resources is due to property owner's own actions or failure of the property owners to accept and exercise sufficient responsibility for and over the actions of occupants, guests, agents or employees that reside or frequent that premises. Such premises, as further described in subsection (b) below, are deemed chronic nuisance premises and are hereby recognized as a public nuisance due to the resource drain it causes the community as a whole. This section is enacted to encourage property owners and/or managers to engage in their responsibility to ensure that activities occurring on their property conform to the law and do not unduly burden the Village's resources and to provide a mechanism for the Village to take action against property owners who fail to ensure premises they own do not require a disproportionate devotion of resources to the premises. This section of the Municipal code is not intended to discourage crime victims or any person in legitimate need of police services from requesting them.

(b) *Determination of Chronic Nuisance Premises.*

- (1) Any residential unit premise to which a Village Department (including the Everest Metro Police Department) responds to complaints of any nuisance activity, that results in a municipal citation or Village enforcement action, three or more separate times within any sixty (60) day period is deemed to have received and required more than the general acceptable level of municipal services and places an undue burden upon the taxpayers of the Village. A residential unit shall be defined as a delineated, single family residence that is housed in a home, duplex unit, apartment complex, condominium or other residential dwelling.

For the purposes of this subsection, a nuisance activity shall be any offense(s) under Chapters 10, 14, 38, 50, 54, 66, 82 and 94 of the Village of Weston Municipal Code, or their statutory counterparts, or any offense under state law for which a penalty under state law for which a penalty of forfeiture, fine or imprisonment is provided.

- (2) Any non-resident owner of a residential unit (s) available for lease or rent within the Village of Weston that has had 3 units or 10% of their available units for lease or rent – whichever is the greater number of units, designated as a chronic nuisance premise, shall be deemed a chronic nuisance landlord and shall be subject to the notice, abatement, hearing and penalties and remedies provisions found herein this ordinance. Further, the designation of a chronic nuisance landlord shall be posted in the Village’s official newspaper, website, and newsletter for the purpose of public awareness.

For the purposes of this subsection, a determination of chronic nuisance premises or the designation of a chronic nuisance landlord of a mobile home park shall be a reviewable item in consideration of renewal of the mobile home park’s annual operating license under Wis Stats. 66.058.

- (3) Any business or commercial venture to which a department responds to complaints of nuisance activity, that results in a municipal citation or Village enforcement action, five (5) or more separate times within any sixty (60) day period is deemed to have received and required more than the general, acceptable level of municipal services, and places an undue burden upon the taxpayers of the Village. For the purposes of this subsection, a nuisance activity is defined under Section (b) (1) of this ordinance. For the purposes of this subsection, a determination of a chronic nuisance premise that carries any class of Village liquor license, shall be a reviewable item in consideration of the revocation of the premise’s liquor license per Wis Stats. 125.12 (2) and shall be assigned the appropriate violation points as determined by the Village of Weston’s alcohol beverage demerit point system.
- (4) For the purpose of this ordinance, a residential unit or business venture shall automatically be designated as a chronic nuisance premise if any single nuisance is affiliated with illegal drug distribution or gang activity (Wis. State Stats 823.113 (1); 823.113 (1) (m) (6).
- (5) An offense shall not be considered a nuisance if it is committed by a person having no association with the premises by acquaintance with, relation to or expressed or implied invitation from the owner, occupant, operator, or agent of the premises.
- (6) An offense shall not be considered a nuisance if it is:
- (a) An offense that results from the property owner/landlord’s self-notification to a Village official or the Everest Metro Police Department as a means of mitigating the nuisance or a crime;
 - (b) A report of domestic violence per Wis. State Statutes.

- (7) Whenever any such premises exist, the appropriate Village department head or the Everest Metro Police Department Chief shall determine from the facts of each incident and considering the purpose of this subsection as set forth in Section (a) above, whether the premises is a chronic nuisance premises. A chronic nuisance premises shall be defined as a public nuisance.

(c) *Notice.* Whenever a Village department head or EMPD Chief finds a premise constitutes a chronic nuisance premises under section (a) (1), the department head or EMPD Chief shall provide written notice of his determination to the owner of the premises as identified by the records of the Village Assessor and Marathon County Land Records. Such notice shall be delivered by certified mail, return receipt requested or by personal service. If the owner cannot be located, the notice shall be published as a Class 2 notice under Wis. Chapter 985. The notice shall contain the following information:

- (1) The street address and number, if applicable, otherwise the parcel number of legal description sufficient to identify the premises.
- (2) A brief statement, including a description of the relevant activities, supporting the determination that the premise is a chronic nuisance premises.
- (3) A statement that the owner shall, within 10 (ten) days of receipt of the notice, or last day of publication if published, respond to the appropriate department head or EMPD Chief requesting a hearing before the Village Board of Trustees or proposing in writing a course of action that will be taken to abate the nuisance activities.
- (4) A statement that owner shall immediately notify the appropriate department head of any change in address to ensure receipt of future notices.

(d) *Owner Abatement.* If the owner responds to the notice in section (c) within 10 (ten) days of receipt of notice or the last day of publication if published with a nuisance abatement proposal, the department head or EMPD Chief may accept, reject, or work with the owner to modify the proposal in his or her discretion. If the department head or EMPD Chief rejects the abatement proposal, determines that an agreement on an appropriate abatement proposal cannot be reached or determines that owner abatement is for any reason unsuccessful, the matter shall be referred to the Village Board of Trustees for hearing.

(e) *Chronic Nuisance Landlord Abatement.* If the non-resident owner of residential units available for lease or rent responds to the notice in section (c) within 10 (ten) days of the receipt of notice or the last day of publication with a nuisance abatement

proposal for all units (3 units or more than 10% of the units available for lease or rent, whatever is greater), the department head or EMPD Chief may accept, reject, or work with the owner to modify the proposal in his or her discretion and remove the designation of Chronic Nuisance Landlord. The designated Chronic Nuisance Landlord nuisance abatement proposal shall include remedies that shall be undertaken to mitigate chronic nuisances, which may include, but is not limited to, landlord – tenant screening, tenant education, tenant eviction procedures, and other preventative practices to improve the residential unit (s). If a non-resident owner of residential units for lease or rent abatement of a nuisance causes the number of nuisance premises to be reduced below the Chronic Nuisance Landlord threshold of (3) units or more than 10% of the units available for lease or rent, whatever is greater, the Village shall drop the designation of Chronic Nuisance Landlord.

(f) *Hearing.* If a hearing is requested by the owner or if the department head or EMPD Chief determines that a satisfactory abatement plan cannot be agreed upon or if the department head or EMPD Chief determines that abatement actions taken by the owner are unsuccessful, a hearing shall be held before the Village Board of Trustees. The owner shall receive ten (10) days written notice of the hearing sent by regular mail or, if the owner cannot be located, by publication of a Class 2 notice under Wis. Stats. Chap. 985. The Village Board shall hear any and all evidence it deems relevant and shall affirm or reverse the determination of the department head or EMPD Chief.

(g) *Penalties and Remedies.*

(1) If the department head's or EMPD Chief's determination is affirmed, the Village Board of Trustees may order the owner to pay the actual cost of city services to respond to any nuisance activities occurring after the three (3) responses that led to the determination that the premises was a chronic nuisance premises. Such costs shall be presented to the Village Board of Trustees and may include costs incurred prior to the Village Board of Trustees' determination. The Village Board of Trustees may order costs of all such calls to the chronic nuisance premises be paid until the public nuisance is abated under section (g). Such costs, plus a reasonable administrative charge, shall be billed to the owner by invoice sent by regular mail and if not paid within thirty (30) days of the date on the invoice shall be charged to the property as a special charge pursuant to Wis. Stats. 66.0627.

(2) The Village Board of Trustees may authorize any other penalty or remedy authorized by law.

(h) *When Nuisance is Deemed Abated.* The public nuisance created by a chronic nuisance premises shall be deemed abated when no Village resources have responded to the premises to address nuisance activities occurs for a period of six (6) consecutive months. The Village or EMPD may also deem a chronic nuisance premise to

be abated, if the occupant, which may include a tenant or resident-owner, vacates the premise.

(i) *Abatement of Public Nuisances.*

(1) *Inspection of Premises.* Whenever a complaint is made to any Village official or employee that a public nuisance exists within the Village, said complaint shall be directed to the appropriate department head or EMPD Chief who shall in his or her reasonable discretion inspect or cause to be inspected the premises complained of and shall make a written report of his or her findings to the Village Administrator. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises.

(j) *Summary Abatement.*

(1) *Notice to Owner.* If the inspecting officer shall determine that a public nuisance exists within the Village, the department head or EMPD Chief may serve notice personally or by certified mail on the persons causing, permitting, or maintaining such nuisance and/or upon the owner or occupant of the premises where 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 a specified, reasonable period of time after consideration of all relevant circumstances and shall state that unless the same is done will cause the nuisance 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 and that said costs may be collected as a special charge pursuant to Wis. Stats. §66.0627.

(2) *Abatement by the 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 department head or EMPD Chief shall cause the abatement or removal of such public nuisance. Wherever possible, costs of abatement shall be billed to the owner, occupant, or person causing the nuisance. If said costs are not paid within thirty (30) days of billing such costs, or if the owner, occupant or person causing the nuisance cannot be found, said costs may be collected pursuant to Wis. Stats. §66.0627.

(3) *Other Methods Not Excluded.* Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of

Wisconsin including, but not limited to an action under Wis. Stats. Chap. 823.

(k) *Cost of Abatement.* In addition to any other penalty imposed by this Chapter for the erection, contrivance, continuance, or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(l) *Penalty Provisions.*

(1) *General Penalty.* Whenever so provided in this Code, any person who shall violate any provision of this Code shall upon conviction of such violation, be subject to a penalty, which shall be as follows:

(2) *First Offense – Penalty.* Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not more than \$2,500 together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding ninety (90) days.

(3) Any person found guilty of violating any provision of this Code who shall previously have been convicted of a violation of the same provision shall upon conviction thereof, forfeit not less than \$50.00 nor more than \$2,500 for each such 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 of prosecution are paid, but not to exceed six (6) months.

(4) *What Constitutes a Separate Offense.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision contained in this Code.

(m) *Execution Against Defendant’s Property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village the Court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

(Ord. of 12-5-2008; Ord. of 4-22-2010)

Sec. 50.105. Accumulation of used motor vehicles.

No person, except a person licensed under Section 18.136 or a licensee of a motor vehicle dealer's license issued under statute, shall accumulate or store or allow to remain outside of any building on real estate located within the village for a period of more than ten days, or dump, deposit or otherwise abandon upon any property or upon any highway, street, road, alley or way within the village, any used motor vehicle, as defined by statute, or any detached part thereof, for which no current registration fee has been paid under statute or which, if paid, does not have properly attached thereto under statute a current license plate, if required, and which is in a condition which would mechanically prevent the immediate operation thereof upon any public highway or its operation thereon would be in violation of the law. Each day that any used motor vehicle, as defined in this section, or any detached part thereof, shall be accumulated or stored or allowed to remain contrary to this section shall constitute a separate and distinct offense.

(Ord. of 7-23-2010)