

VILLAGE OF BIG ROCK

ORDINANCE NO. 2017- _____

**AN ORDINANCE APPROVING AN AMENDMENT TO THE VILLAGE OF BIG ROCK
NUISANCES AND PROPERTY MAINTENANCE CODE**

**ADOPTED BY THE BOARD OF TRUSTEES
OF THE VILLAGE OF BIG ROCK
THIS 22ND DAY OF AUGUST, 2017**

Published in pamphlet form by the authority of the Board of Trustees of the
Village of Big Rock, Kane County, Illinois
This 22nd day of August, 2017

ORDINANCE NO. 2017-_____
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NUISANCES AND PROPERTY MAINTENANCE CODE

WHEREAS, the Village of Big Rock is a municipal corporation duly organized and operating pursuant to the laws of the State of Illinois; and

WHEREAS, in Year 2009, the Village of Big Rock adopted the Village of Big Rock Nuisances and Property Maintenance Code; and

WHEREAS, the Village has amended the Nuisance and Property Maintenance Code from time to time; and

WHEREAS, pursuant to applicable provisions of the Illinois Municipal Code, the Village has the legal authority to define and abate nuisances; and

WHEREAS, the Village of Big Rock Board of Trustees desires to amend the Nuisances and Property Maintenance Code to define noxious and offensive odors as a prohibited nuisance and to provide authority to the Zoning Official to take necessary enforcement action to abate and prevent such nuisances.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Big Rock, Kane County, Illinois, as follows:

Section 1: The above-stated Recitals are hereby restated and incorporated into this Section 1 as though fully set forth herein.

Section 2: The Village of Big Rock Amended Nuisances and Property Maintenance Code, a copy of which is attached hereto as Exhibit "A", is hereby approved (additions are indicated by underlined and **shaded** text; deletions are indicated by ~~strikeouts~~ and **shaded** text).

Section 3: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of the conflict.

Section 4: This ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law. In order to protect the public health, safety and welfare, these amendments to the Nuisances and Property Maintenance Code may be applied to existing property with pre-existing conditions.

PRESENTED to the Board of Trustees of the Village of Big Rock, Kane County, Illinois on this 22nd day of August, 2017.

Trustee Hanninen ____ Trustee Metzger ____ Trustee Lynch ____

Trustee McCannon ____ Trustee Walsh ____

PASSED by the Board of Trustees of the Village of Big Rock, Kane County, Illinois, this 22nd day of August, 2017.

SIGNED by the President of the Board of Trustees of the Village of Big Rock, Kane County, Illinois, this 22nd day of August, 2017.

Dean Hummell, President
Village of Big Rock, Illinois

ATTEST:

Tim May, Village Clerk
Village of Big Rock, Illinois

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

CLERK’S CERTIFICATE

I, Tim May, certify that I am the Village Clerk of the Village of Big Rock, Kane County, Illinois, and as such officer I am the keeper of the records, files and proceedings of the corporate authorities of said municipality.

I further certify that:

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was adopted by the President and Board of Trustees of the Village of Big Rock at a meeting held on August 22, 2017 and approved by the Village President on August 22, 2017. I do further certify that a quorum of said Board of Trustees was present at said meeting, and that the Board complied with all the requirements of the Illinois Open Meeting Act.

I do further certify that the ordinance, of which the attached is a true and correct copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of same.

IN WITNESS WHEREOF, I have hereunto affixed my official hand and the seal of the municipality this 22nd day of August, 2017.

(SEAL)

Tim May, Village Clerk
Village of Big Rock, Illinois

EXHIBIT "A"

AMENDED NUISANCE AND PROPERTY MAINTENANCE CODE

AMENDED NUISANCES AND PROPERTY MAINTENANCE CODE

Sec. 1. Administration:

(a) Scope. The provisions of this Code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibilities of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

(b) Intent. This Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare in so far as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

(c) Zoning Officer. The Zoning Officer designated by the village, along with other authorized representatives as defined herein, shall have authority to enforce this Code. The Zoning Officer and other authorized representatives shall have authority to appoint inspectors and other employees to assist in the enforcement of this Code.

The Zoning Officer, and other authorized representatives and appointed inspectors and employees charged with enforcement of this Code, while acting on behalf of the Village shall not thereby be rendered liable personally, and are hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act required or permitted in the discharge of officials duties, provided such individuals are acting in good faith and without malice. Any suit instituted against any such individual because of an act performed by the individual in the lawful discharge of duties and under the provisions of this Code shall be defended by the legal representative of the Village until final termination of the proceedings. Such individual shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Code; and any such individual, acting in good faith and without malice in enforcing this Code shall be free from liability.

(d) Powers of Zoning Officer. The Zoning Officer shall enforce the provisions of this Code and shall have the following powers and duties, which are not meant to be all inclusive:

1. The Zoning Officer shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and procedures; to create forms and applications; to interpret and implement the provisions of this Code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this Code, or of violating accepted engineering methods involving public safety.

2. The Zoning Officer shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer or such approved agency or by the responsible individual. The Zoning Officer is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to approval of the Village corporate authorities.

3. The Zoning Officer is authorized to enter the structure or premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Zoning Officer shall consult with the Village to discuss authorization to pursue recourse as provided by law.

4. The Zoning Officer shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

5. The Zoning Officer shall issue all necessary notice or orders to ensure compliance with this Code. The Zoning Officer shall keep official records of all business and activities rendered on behalf of the Village.

6. Whenever there are practical difficulties involved in carrying out the provisions of this Code, the Zoning Officer shall have the authority to grant modifications for individual cases, provided the Zoning Officer shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and kept with the official records.

7. The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Zoning Officer finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety.

8. Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Zoning Officer shall have the authority to require tests to be made as evidence of compliance at no expense to the Village.

Sec. 2. Definitions:

As used in this Code, the following terms shall be defined as indicated in this section, unless the context clearly requires otherwise:

Agricultural Purposes. The growing, developing, processing, conditioning, or selling of farm crops and farm seeds, truck garden crops, animal and poultry husbandry, apiculture, aquaculture, dairying, floriculture, horticulture, nurseries, tree farms, sod farms, pasturage, viticulture, and wholesale greenhouses when such agricultural purposes constitute the principal activity on the land.

Approved. Approved by the code official.

Authorized Representative. Any duly sworn zoning officer or building officer of the Village, any duly sworn deputy of the Kane County Sheriff's Department, and any Kane County Health Officer or Environmental Management Officer.

Basement. That portion of a building which is partly or completely below grade.

Bathroom. A room containing plumbing fixtures including a bathtub or shower.

Bedroom. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

Brush. Tree trunks, limbs, branches, and twigs.

Building. Any structure which is designed, used or intended for the support, enclosure, shelter, or protection of persons, animals, or other property and which is permanently affixed to the land.

Ceremonial Fire. An outdoor fire larger than three feet by three feet by three feet (3' x 3' x 3') which is used for entertainment purposes as part of a specifically scheduled public or private event and excludes leaves, grass or shrubbery clippings or cuttings.

Code Official. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

Condemn. To adjudge unfit for occupancy.

Dwelling. A building or portion thereof designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, multiple-family dwellings and apartment hotels, but not including hotels, motels, trailer coaches or mobile homes.

Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Easement. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

Exterior Property. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

Extermination. The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food, by poisoning, spraying, trapping, or by any other recognized and legal method of pest elimination approved by the Health Officer.

Garbage. Organic waste resulting from the preparation, processing, handling and storage of food and all decayed or spoiled food from any source whatsoever.

Grass. All vegetative ground cover located within a yard excluding noxious weeds.

Guard. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

Human Wastes. Food and byproducts of metabolism which are passed out of the human body.

Imminent Danger. A condition which could cause serious or life-threatening injury or death at any time.

Infestation. The presence, within or contiguous to a structure or premises of insects, rodents, vermin or other pests.

Inoperable Motor Vehicle. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

This Ordinance shall not apply to any motor vehicle that is kept within a building when not in use, or to a motor vehicle on the premises of a place of a duly licensed business engaged in automobile repair or in the wrecking/junking of motor vehicles.

Junk. Is hereby defined as, but not limited to car parts, scrap metal furniture, appliances, equipment, glass, paper irrespective of whether these materials may be reused.

Landscape Waste. All accumulations of grass or shrubbery cuttings, leaves, flowers, and weeds.

Manure. Stable bedding and excrement of all domestic animals and fowl.

Noxious Weed. An annual, biennial or perennial plant propagated by seed or vegetative parts, as listed in the Illinois Noxious Weed Law, which is injurious to public health, crops, livestock, land or other property.

Occupancy. The purpose for which a building or portion thereof is utilized or occupied.

Occupant. Any individual living or sleeping in a building, or having possession of a space within a building.

Openable Area. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Owner. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Person. An individual, corporation, partnership or any other group acting as a unit.

Prairie Plants. Any one of 851 species of plants defined as a prairie plant by the Illinois Plant Information Network maintained by the Illinois Natural History Survey.

Premises. A lot, plot or parcel of land, easement or public way, including any structures thereon.

Public Way. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

Recreational Fire. An outdoor fire for warmth, cooking for human consumption or temporary non-ceremonial purposes where the fire is not larger than three feet by three feet by three feet (3' x 3' x 3') and excludes leaves, grass or shrubbery clippings or cuttings.

Refuse. Garbage, rubbish, ashes, sweepings, manure, dead animals, privy or cesspool contents or litter.

Rodents. Rats and mice.

Rubbish. Combustible and non-combustible waste material, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, cans, metals, mineral matter, glass, crockery, and dust from similar materials.

Strict Liability Offense. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

Structure. Anything erected, the use of which requires a location on or in the ground, or attached to something having a location on or in the ground.

Tenant. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Ventilation. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Vermin. Roaches, bedbugs, fleas, lice, termites, mosquitoes, flies or similar pest like insects.

Village. The Village of Big Rock, Kane County, Illinois.

Workmanlike. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

Yard. An open space on the same lot with a structure.

Other definitions as stated in rules and regulations that are referenced in this Code shall apply.

Sec. 3. Nuisances Declared:

It is hereby declared that any of the following activities and/or conditions are nuisances and are unlawful when conducted or allowed to exist on property located within the corporate limits of the Village; whether conducted, allowed, suffered or permitted by the owner, tenant, and/or other occupant thereof (it being the intent of this chapter to make all such persons jointly and severally liable for compliance herewith):

(1) *Exterior Property Areas:*

a. *Noxious Weeds:* To keep, maintain or grow noxious weeds or other vegetation which creates a health or safety hazard to the public. Excluded from the provisions of this subsection are prairie plants, lands or portions of any lands located in a public nature area, any property owned or leased by a unit of government and property zoned and used for any agricultural purpose.

b. *Overgrown Residential Yard:* To allow vegetation defined as grass to exceed ten inches (10") in height on a residential use parcel located within the Village. Excluded from the provisions of this subsection are prairie plants.

c. *Depositing Of Junk, Trash Or Refuse:* To deposit or allow to be deposited offal, fecal matter, night soil, garbage, compost, junk, trash, refuse or other offensive substances upon public or private property, or to permit such objects to remain upon such property. Excluded from the provisions of this subsection is the application of compost for horticultural purposes.

d. *Storage Of Junk, Trash Or Refuse:* To keep or store junk, trash and refuse on property. Without limiting the generality of the foregoing, "junk, trash and refuse" is defined herein to include any and all waste matter, whether reusable or not, which is offensive to the public health, safety and welfare of the neighborhood, and is specifically intended to include, but not to be limited to, trucks, tractors, machinery of any kind, any parts thereof, iceboxes, refrigerators, freezers, stoves, metal drums or other containers, paper,

construction debris and raw garbage irrespective of whether or not such objects are located on the property of the owner or bailee of such objects. This subsection shall not apply to refuse disposal facilities regulated by the state, the county, or any municipality of the state.

e. *Throwing Or Depositing Offal*: To throw or deposit any offal or other offensive matter, or the carcass of any dead animal, in any watercourse, lake, pond, spring, well, sanitary sewer, storm sewer, easement, street or public highway.

f. *Household Garbage*: To place household garbage in any outside container so that the household garbage is accessible to animals. Further, it shall be a nuisance and unlawful to place garbage or trash out for collection more than twenty four (24) hours before the scheduled pick up time.

g. *Manure And Garbage*: To accumulate manure, rubbish, garbage, refuse, junk vehicles, human and industrial, noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes. Normal storage for agricultural purpose is considered to be two hundred sixteen (216) cubic feet per acre (6 x 6 x 6 accumulation) of cultivated land.

h. *Offensive Garbage Containers*: To allow privies, vaults or garbage cans which are offensive and which are not flytight, vermin and rodent proof, or do not comply with the requirements of this chapter.

i. *Dumping*:

1. To dump, deposit, throw, discard, leave or cause or permit the dumping, or depositing or discarding or leaving of litter upon any public or private property in this Village, or upon any river, lake, pond, stream or any body of water.

2. There shall be no dumping as described in subsection (a) of this section unless:

(A) The property has been designated by a local unit of government as a proper litter disposal site, and the litter is disposed of on that property in accordance with the applicable rules and regulations of the state pollution control board.

(B) The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or the act is done under the personal direction of the owner or tenant and does not create a public health, safety, nuisance or fire hazard and the litter is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the deposit of litter.

(C) The person is acting under the direction of proper public officials during special cleanup days.

(D) The person is lawfully acting to or reacting to an emergency situation where health or safety is threatened, and removes and properly disposes of such litter when the emergency situation no longer exists.

3. To dump, deposit, throw, discard or otherwise dispose of litter from any motor vehicle upon any public road, upon any public or private property or into any river, lake, pond, stream or body of water in this county.

j. *Burning Of Garbage:* To burn garbage or rubbish outdoors with the exception of brush.

k. *Construction Materials:* To store lumber or other building materials, construction vehicles, and/or construction equipment, not in connection with a permitted building project in progress on the immediate premises, or not in connection with a lawfully permitted construction business where outdoor storage is permitted.

l. *Contamination Of Water:* To contaminate or render unwholesome or impure the water of any aboveground or subsurface aquifer, spring, river, stream, pond or lake, to the injury or prejudice of others or to undertake activities, actions or allow conditions that may potentially do so.

m. *Inoperable Motor Vehicles:* Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in a process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

n. *Exception:* A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

o. *Offensive Odors:* To persistently release offensive and obnoxious odors from a property which unreasonably interfere with the proper enjoyment of life or the property of others and which are offensive to individuals of normal sensitivity. In this regard, the one-time release of an offensive and obnoxious odor which persists for less than one hour is not a violation of this ordinance. The persistent release of offensive and obnoxious odors for one hour or more, or for less than one hour but on multiple occasions throughout one or more days, constitutes a violation of this ordinance.

(2) *Open Burning Of Landscape Waste:*

a. To cause or allow any open or uncontrolled burning of any materials, other than landscape waste, in violation of the following regulations and restrictions.

b. To cause or allow any open or uncontrolled burning of landscape wastes in violation of the following regulations and restrictions. Any and all burning in the Village shall be in accordance with the restrictions enumerated below:

1. The open burning of landscape waste shall only occur on the property upon which the landscape waste was generated. The burning of any materials other than landscape waste and brush is prohibited.

2. The following restrictions upon the open burning of landscape waste on the property upon which it was generated shall prevail:

(A) Burning is permitted only on sunny days between ten o'clock (10:00) A.M. and three o'clock (3:00) P.M.

(B) Burning is not permitted when the wind is in excess of ten (10) miles per hour.

(C) Burning is not permitted within twenty feet (20') of any building, structure or property line.

(D) Burning is not permitted when it is determined and announced by the Kane County health department that inversion conditions or an ozone alert exist.

(E) Burning is not permitted of any material other than dry landscape waste or brush.

(F) Burning is not permitted on public or private roads, alleys, sidewalks or easements.

(G) All open burning must be supervised until the fire is extinguished.

(H) A fire extinguisher or garden hose or water source shall be available at the burning site.

(I) It is the responsibility of the individual conducting the burning and the owner of the property to satisfactorily determine that all conditions upon burning as noted above are complied with during any burning.

3. The terms and provisions of this chapter shall not apply to any burning of landscape waste for purposes of habitat reclamation or firefighter training.

4. The terms and provisions of this chapter shall not apply to the burning of brush for purposes of domestic fireplaces or cooking or external fireplaces, or to self-contained outdoor wood burning devices or fireplaces.

5. The terms and provisions of this chapter shall not apply to the open burning of brush for purposes of recreational fires.

6. The terms and provisions of this chapter shall not apply to the open burning of brush for purposes of ceremonial fires provided that notice of any ceremonial fire has been given to the fire protection district or fire department serving the area where the fire is to take place and a permit has been obtained from the Kane County health department.

Failure to obtain a permit from the Kane County health department prior to conducting a ceremonial fire utilizing brush shall be deemed a violation of this chapter. Failure to notify the applicable fire protection district or fire department and obtain permission prior to conducting a ceremonial fire utilizing brush shall be deemed a violation of this chapter.

(3) *Noise:*

a. *Construction Noise:* To perform or allow to be performed construction, repair or remodeling work where the noise from such can be heard from a distance of one hundred feet (100') or more from the source of the noise between nine o'clock (9:00) P.M. and six o'clock (6:00) A.M. Monday through Friday and on Saturdays and Sundays and legal holidays between nine o'clock (9:00) P.M. and eight o'clock (8:00) A.M.

b. *Vehicular Noise:* Notwithstanding any other provision of this code, to operate or permit operation of any sound amplification system in a vehicle or on property, or to operate off road vehicles, including, but not limited to, off highway motorcycles, minibikes, all-terrain vehicles (ATVs), snowmobiles or other like or similar vehicles, on private property where the noise from such vehicle or activity is such as to unreasonably disturb, injure or endanger the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity; and when after written or verbal warning from law enforcement personnel the owner or operator fails to cease and desist from such operation or activity. The terms "motorcycles", "off road motorcycles", and "all-terrain vehicles" shall have the same meaning as in the Illinois motor vehicle code. "Snowmobile" shall have the same meaning as in the Illinois snowmobile registration and safety act.

c. *Lawn Equipment And Tools:* To perform lawn mowing or utilize power or nonpower tools between the hours of eight o'clock (8:00) P.M. and seven o'clock (7:00) A.M.

d. *Raucous Noise:* To make, continue, create or cause to be made or continued any loud or raucous noise.

e. *Harsh, Prolonged Or Unusual Noise:* To make, continue, create or cause to be made or continued any noise which is harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which the noise emanates or as to unreasonably interfere with the peace and comfort of neighbors or their guests or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

f. *Violations Of Illinois Motor Vehicle Code:* Any violation of section 12-602 of the Illinois motor vehicle code.

g. *Modifications To Equipment:* Removal or modification of adequate sound suppression equipment as set forth in section 4-1(E) of the snowmobile registration and safety act.

h. *Factors To Determine:* Factors for determining whether a sound is unreasonably loud or raucous may include, but are not limited to, the following:

1. The proximity of the sound to sleeping facilities, whether residential or commercial;
2. The land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;
3. The time of day the sound occurs;
4. The duration of the sound;
5. Whether the sound is recurrent, intermittent, or constant;
6. Proof of violation of this subsection shall not require the use of any decibel meter or other measuring device.

i. *Free Speech:* Nothing herein shall be construed as preventing the lawful exercise of the right of free speech protected by the constitutions of the United States or the state of Illinois.

j. *Agricultural Noise:* Excluded from the provisions of this subsection is noise generated by agricultural equipment on land zoned and used for agricultural purposes and work performed for or on behalf of a public body.

k. *Motorcycles:* Nothing herein shall be construed as a limitation on the operation of duly registered motorcycles as defined in the Illinois motor vehicle code.

(4) *Animals And Infestations:*

a. *Collection Of Carcasses:* To allow 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. To allow to remain carcasses of dead animals or any part of decaying animal matter, not buried or destroyed or collected within twenty four (24) hours after death.

b. *Diseased Animals:* To allow diseased animals running at large.

c. *Housing Of Animals Or Fowl:* To house animals or fowl fifteen feet (15') from the property line adjacent to residences, schools, hospitals, public buildings, playgrounds, parks and other places, if said animals create sanitary or health problems to persons or property in close proximity to them.

d. *Animals Running At Large:* To willfully allow the running at large (off property) of cattle, horses, mules, asses, swine, sheep, goats, dogs, chickens, ducks, geese, other fowl, or other domestic or exotic animals.

e. *Animal Fighting*: To keep or use or be in any way connected with the management of any room, place or building or other premises, kept or used for the purpose of fighting or baiting any dog, cock or other animal, or to permit such place to be kept or used for such purpose on premises owned, rented or controlled.

f. *Insects, Vermin, Rodents And Other Pests*: To allow an infestation of insects, vermin, rodents or other pests. Every owner of a property, building or structure shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises whenever infestation is caused by failure of the owner to maintain the property, building or structure in rodentproof or reasonable insectproof condition. Furthermore, whenever infestation exists in the shared or public parts of any property, building, or structure, extermination shall be the responsibility of the owner. However, every occupant of a building unit shall be responsible for extermination within the building unit when such occupant is responsible for the infestation.

(5) *Structures*:

a. *Dangerous Structures*: To allow any building, mobile home, shed, fence or other manmade structure to exist which is hazardous to public health because of its condition, faulty construction or lack of proper repair.

b. *Inside Refuse Storage And Disposal*: To place, leave, dump or accumulate any garbage, rubbish or other refuse in any building or structure.

c. *Building Exterior*: To allow a building exterior to be in poor repair, structurally unsound, contain unsanitary conditions or to pose a threat to the public health, safety or welfare. The following standards shall apply to existing buildings:

1. General: The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.
2. Protective Treatment: All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Removal of lead based paint to follow state and federal laws.
3. Premises Identification: Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. Single occupancy buildings with rural fire numbers may use the sign provided by the fire protection district to satisfy this requirement if the sign is clearly visible at the street. Multiple-tenant buildings must additionally have suite letters or numbers.

4. Structural Members: All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

5. Foundation Walls: All foundation walls shall be maintained free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

6. Exterior Walls: All exterior walls shall be free from holes, breaks, and loose or rotting materials and be maintained weatherproof.

7. Roofs And Drainage: All roofing and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

8. Decorative Features: All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

9. Overhang Extensions: All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored so as to be kept in a sound condition.

10. Stairways, Decks, Porches And Balconies: Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

11. Chimneys And Towers: All chimneys, cooling towers, smokestacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair.

12. Handrails And Guards: Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

13. Window, Skylight And Door Frames: Every window, skylight, door and frame shall be kept in sound condition, good repair and weathertight. Operable windows required for ventilation shall have fitted screens.

14. Glazing: All glazing materials shall be maintained free from cracks and holes.

15. Doors: All exterior doors, door assemblies and hardware shall be maintained in good condition.

16. Basement Hatchways: Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

17. Guards For Basement Windows: Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

18. Vehicular Doors: Vehicular openings which were originally designed and constructed with a closing door shall continue to be maintained in operating condition and able to be fully closed.

19. Furniture On Porches, Accessory Structures, Yards And Landings: Household furniture such as sofas, stuffed chairs and mattresses, which are not designed to withstand the elements and outdoor use, shall not be permitted to be placed on porches, accessory structures, yards and landings. Such furniture may provide a location where insects, rodents or other vermin may breed or may reasonably be expected to breed. This section shall not prohibit the storage of such household furniture on a totally enclosed porch having a roof, walls, screens or glass windows.

20. Exhaust Vents: Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

d. *Accessory Structures:* To allow an accessory structure to a residential, commercial or nonagricultural use, including detached garages, sheds, gazebos, decks, platforms, fences and walls to be in poor repair, structurally unsound, contain unsanitary conditions or to pose a threat to the public health, safety or welfare. The following standards shall apply to existing accessory structures:

1. General: Accessory structures shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

2. Structural Members: All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

3. Foundation Walls: All foundation walls shall be maintained free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

4. Exterior Walls: All exterior walls shall be free from holes, breaks, and loose or rotting materials and be maintained weatherproof.

5. Roofs And Drainage: All roofing and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and

downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

6. Window, Skylight And Door Frames: Every window, skylight, door and frame shall be kept in sound condition, good repair and weathertight.

7. Doors: All exterior doors, door assemblies and hardware shall be maintained in good condition.

8. Vehicular Doors: Vehicular doorways shall have closing doors.

e. *Pools*: All swimming pools, hot tubs and spas containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. All swimming pools, spas and hot tubs and their barriers including fences, self-closing and self-latching gates, heights, covers and alarms shall be maintained in working order, in a clean and sanitary condition, and in good repair. Water must be maintained in a clean and sanitary condition or be completely drained. Pools that have been abandoned or are not in an operable state of condition must be removed.

Sec. 4. Exemptions:

- (a) The terms and provisions of this chapter shall not apply to property which is both zoned and used for any agricultural purpose, unless said property is determined to be dangerous and unsafe in violation of this chapter.
- (b) The terms and provisions of this chapter shall not apply to structures which were exempt from the provisions of the county building regulations as an agricultural use structure when originally erected and continue to be used for agricultural purposes. Structures which were exempt from the provisions of the county building regulations as an agricultural use structure when originally erected but which are currently used for nonagricultural purposes or are vacant or abandoned are not exempt from the terms and provisions of this chapter. Additionally, such otherwise exempt structures are not exempt from the terms and provisions of this chapter if determined to be dangerous and unsafe in violation of this chapter.

Sec. 5. Enforcement:

- (a) *Notice Of Violation*: Whenever a nuisance is found to exist within the Village, any authorized representative shall give written notice to the owner and/or occupant of the property upon which such nuisance exists or upon the person allowing, causing or maintaining the nuisance. The notice of violation under the provisions of this section shall contain:

- (1) The location of the violation.
- (2) A description of what constitutes the violation.
- (3) A statement of acts necessary to abate or correct the violation.
- (4) A date by which the violation must be abated or corrected to avoid further legal action.
- (5) Inform the recipient of the right to appeal.

(b) *Appeal:* Any person directly affected by a decision of the authorized representative or a notice or order issued under this chapter shall have the right to appeal to the Planning & Zoning Commission. The appeal shall proceed as follows:

(1) The affected person shall file a written appeal with the Village Clerk within 20 days of the date of the action from which the appeal is being filed, and thereafter the village clerk shall forward such written appeal to the Planning & Zoning Commission for processing.

(2) An appeal stays all proceedings in furtherance of the action appealed from, unless the authorized representative of the village certifies to the Planning & Zoning Commission, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed.

(3) After receipt of the appeal, the Planning and Zoning Commission shall fix a reasonable time for the hearing of the appeal and shall give due notice of the hearing date to the affected person. The Planning and Zoning Commission shall conduct a hearing on the appeal and shall render its written decision on the appeal no later than 90 days after its receipt of the appeal. The Planning and Zoning Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determinations as in its opinion ought to be made on the premises and to that end shall have all of the powers of the authorized representative from whom the appeal was taken.

(c) *Complaint:* In the event the owner or occupant of the property upon which such nuisance exists has failed within the prescribed time to abate such nuisance, then an authorized representative or Village Attorney may file a complaint in an appropriate court in Kane County. Any authorized representative may issue a complaint against the owners, lessees and/or occupants of said property or the persons responsible for causing the nuisance charging a violation of any section or subsection of this chapter. Such complaint may seek any and all applicable relief available at law or inequity including, but not limited to, abatement of the nuisance, fines or injunctive relief. Issuance of a notice of violation shall not be a precondition to the filing of a complaint when the nuisance results in an emergency situation requiring immediate corrective action as determined by the authorized representative. Violation of this Code shall be deemed a civil infraction, and the violation shall be deemed a strict liability offense. Any action taken by the Village to enforce this

Code shall be charged against the real estate upon which the violation is located and shall be a lien upon such real estate, to the extent permitted by law.

Sec. 6. Fines:

The fine for a violation of any subsection of this chapter shall not exceed five hundred dollars (\$500.00). Each day a violation exists constitutes a separate offense.

Sec. 7. Cleanup:

In addition to the remedies set forth in this Code and otherwise provided by law, the village shall have the following remedies regarding the cleanup of property and placement of a lien thereon:

- (a) If the owner of any premises or lot neglects or fails to abate a declared nuisance regarding the removal of garbage, debris, and graffiti, after due notice and time specified by the authorized representative, the authorized representative may provide for the removal of such materials and the expense incurred shall be billed to the owner and placed as a lien on the property pursuant to 65 ILCS 5/11-20-13.
- (b) If the owner of any premises or lot neglects or fails to exterminate any infestations of pests as defined in 65 ILCS 5/11-20-8 after due notice and time, as specified by the authorized representative, the authorized representative may provide for the extermination of such pests and the expense incurred shall be billed to the owner and placed as a lien upon the property pursuant to 65 ILCS 5/11-20-8.
- (c) If the owner of any premises or lot neglects or fails to abate a declared nuisance regarding noxious weeds, noxious trees or bushes, or the trimming of trees and bushes, after due notice and time, as specified by the authorized representative, the authorized representative may provide for the removal of such noxious weeds, noxious trees or bushes, or trimming of such trees and bushes and the expense incurred shall be billed to the owner and placed as a lien upon the property pursuant to 65 ILCS 5/11-20-7.

Sec. 8. Severability:

All provisions, paragraphs, sections, divisions, subdivisions and any portions thereof of this chapter are separate and distinct. If any one or more provisions, paragraphs, sections, divisions, subdivisions or portions thereof are found to be void, invalid or otherwise unenforceable, the validity of the remaining provisions, paragraphs, sections, divisions, subdivisions or portions thereof shall not be affected.