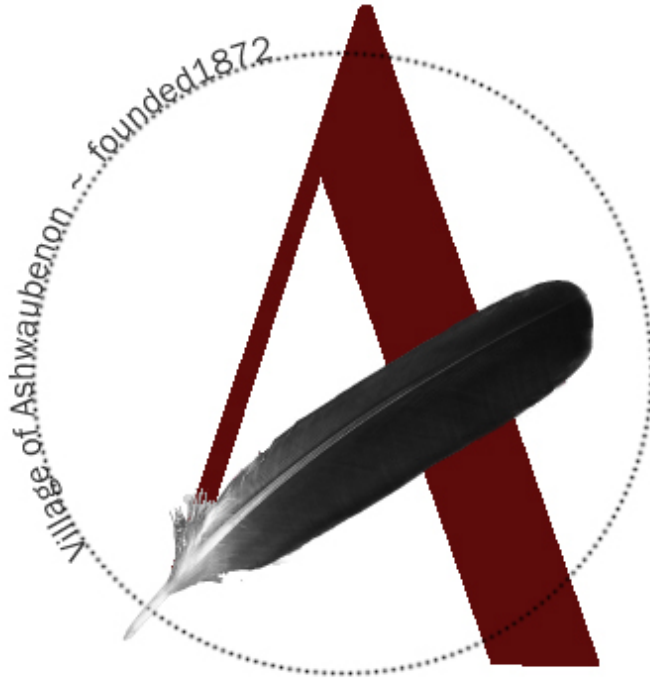


# Village of Ashwaubenon

## Municipal Code Book

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Chapter 11 - Nuisances and Environment

# Municipal Code Book

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# Chapter 11 - Nuisances and Environment

## Article 1 - Public Nuisances

### 11-1-19 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public nuisance* means a thing, act, occupation, condition or use of property which continues for such length of time as to:

- (A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (B) In any way render the public insecure in life or in the use of property;
- (C) Greatly offend the public morals or decency;
- (D) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water, other public way or the use of public property.

(Code 2006, § 10.02)

### 11-1-20 Prohibited

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the village.

(Code 2006, § 10.01)

### 11-1-21 Public Nuisances Affecting Public Health

The following acts, omissions, places, conditions, and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other nuisances within the definition of this chapter:

- (A) *Adulterated food or drink*. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (B) *Unburied Carcasses*. Carcasses of animals, bird, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (C) *Breeding Places for Insects or Vermin*. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
- (D) *Standing Water*. Standing water at any point on any property within the village, except water impounded on farm land for agricultural purposes.

(E) *Privy Vaults and Garbage Cans.* Privy vaults and garbage cans which are not fly-tight.

(F) *Noxious Weeds, Grass and Vegetation.*

(1) *Purpose.* It is the purpose of this section to prohibit the uncontrolled growth of vegetation and to control noxious weeds, while permitting the planting and maintenance of planned natural landscaping that add diversity and richness to the quality of life. There are reasonable expectations regarding the proper maintenance of vegetation on any lot or parcel of land. It is in the public's interests to provide standards regarding the maintenance of vegetation because vegetation which is not managed can decrease the value of nearby properties and threaten the public health and safety. It is also in the public's interests to encourage diverse landscaping treatments, particularly those that encourage the preservation, restoration, and management of native plant communities which can be economical, low maintenance and effective in soil and water conservation. The village enacts this section to balance these competing interests.

(2) *Definitions.*

*Destroy* means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to bloom or flower stage.

*Garden* means a cultivated area dedicated to growing vegetables, fruits, annual and perennial plants, ornamental grasses and ground cover in a well-defined location.

*Native plants* means those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), forbs (flowering broadleaf plants) that are native to or naturalized to the State of Wisconsin. Native plants do not include weeds.

*Noxious weeds* means any plant listed under Wis. Stats. §§ 23.235(1)(a) or 66.0407(1)(b), and shall also include arctium spp. (burdock), cirsium and carduus spp. (thistle), ambrosia spp. (ragweed), alliaria petiolata (garlic mustard), plantage lanceolate (buckhorn), and poison ivy.

*Ornamental grasses and groundcovers* means grasses and groundcovers not indigenous to Wisconsin. Ornamental grasses do not include turf grasses and weeds.

*Planned natural landscaping* means a planned, intentional and maintained planting of native plants, ornamental grasses and groundcovers, rain gardens, shrubs and trees. Planned natural landscaping does not include any species of turf grasses and is not intended to allow a property owner to ignore lawn care duties. Planned natural landscaping does not include gardens.

*Rain garden* means a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of storm water and accompanying pollutants from entering streams, rivers and lakes.

*Turf grasses* means grasses commonly used in regularly cut lawns or play areas including bluegrass, fescue or rye grass blends or any other similar grasses.

(3) *Control of noxious weeds.*

- (a) Any undeveloped parcel one acre or larger in size shall destroy noxious weeds and cut long grass and vegetation to six inches in height within the right-of-way and within 20 feet of any abutting developed property. The remaining property shall be maintained to a height of 12 inches or less.
- (b) Any parcel with improvements upon it or a parcel less than one acre in size shall destroy noxious weeds and cut and maintain long grass and vegetation to a height of six inches or less.
- (c) This section shall not apply to:
  - (i) Gardens,
  - (ii) Plants located on agricultural land,
  - (iii) Plants located on shoreland within 35 feet of the ordinary high-water mark,
  - (iv) Plants located within environmentally sensitive areas such as steep slopes, drainage ways, wetlands, and protective buffer areas, or
  - (v) Planned natural landscaping that is wholly contained within the parcel on which it is planted and maintained. The cost of destroying the weeds shall be charged and assessed in the manner provided by Wis. Stat. § 66.0517(3)(b)1.
- (4) *Enforcement.*
  - (a) *Abatement.* Any property owner in violation of this section shall be provided written notice by the director of public works or his/her designee by mailing to the property owner or by posting written notice on the door of the property in violation. The written notice shall request compliance within 48 hours of mailing or posting of the notice. If such violation is not corrected within 48 hours, the village will authorize and conduct action to bring the property into compliance and bill the property owner for such efforts under Wis. Stat. § 66.0627. If any property owner receives notice under this section on three separate occasions, no further notices will be required for further violations in the calendar year. The village shall bring the property into compliance and bill the property for each violation thereafter.
  - (b) *Citation.* The director of public works or his/her designee may issue a citation for each violation of this section in an amount up to \$500.00. State law reference—Special charges, Wis. Stat. § 66.0627.
- (G) *Animals.* All animals running at large.
- (H) *Air pollution.* The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensitiveness or to threaten or cause substantial injury to property in the village.

- (I) *Water pollution.* The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, creamery, or industrial wastes or other substances.
- (J) *Noxious odors, etc.* Any use within the village of property, substances, or things emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the village.
- (K) *Street pollution.* Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the village.
- (L) *Storage of tallow.* The construction and operation of a tank or tanks for the storage of tallow in the village whereby nauseous, offensive, or unwholesome odors are allowed to be emitted.

(Code 2006, § 10.03; Ord. No. O6-5-06, § 1, 6-27-2006; Ord. No. O6-2-13, § 1, 6-25-2013; Ord. No. O4-1-14, § 1, 4-22-2014) State law reference— Special charges, Wis. Stats. § 66.0627.

### **11-1-22 Offending Morals and Decency**

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition provided in section 11-19:

- (A) *Disorderly houses.* All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual conduct or gambling.
- (B) *Gambling devices.* All gambling devices and slot machines.
- (C) *Unlicensed sale of liquor and beer.* All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the village.
- (D) *Continuous violation of village ordinances.* Any place or premises within the village where village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (E) *Illegal drinking.* Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of state laws.
- (F) *Obscene material or performances.* Any violation of Chapter 9, Section 9-25 and Chapter 6, Article VIII.

(Code 2006, § 10.04; Ord. No. 4-3-86, 4-22-1986)

### **11-1-23 Affecting Peace and Safety**

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, health or safety coming within the definition provided in section 11-19:

- (A) *Dangerous signs, billboards, etc.* All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public so situated or constructed as to endanger the public safety.
- (B) *Illegal buildings.* All buildings erected, repaired or altered in violation of village ordinances relating to materials and manner of construction of buildings and structures within the village.
- (C) *Unauthorized traffic signs.* 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 official traffic control devices, railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.
- (D) *Obstruction of intersections.* All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (E) *Low-hanging tree limbs.* All limbs of trees which project over and less than ten feet above any public sidewalk, street or other public place.
- (F) *Dangerous trees.* All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (G) *Fireworks.* All use or display of fireworks except as provided by state laws and village ordinances.
- (H) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use or habitation.
- (I) *Low-hanging wires and cables.* All wires and cables over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- (J) *Noisy animals or fowl.* The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the village.
- (K) *Obstructions or excavations of streets, alleys, etc.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the village but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.
- (L) *Unlawful assemblies.* Any unauthorized or unlawful use of a public street, alley or sidewalk or of property abutting on a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

- (M) *Blighted buildings and premises*. All blighted buildings and premises subject to the following:
- (1) Premises existing within the village which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk or other unsightly debris, structurally unsound fences, and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the village.
  - (2) The blighted premises contribute to conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive and disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection and other public services; or the conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.
  - (3) Elimination of blighted premises and prevention of blighted premises in the future is in the best interest of the citizens and this shall be fostered and encouraged by this article. It is essential to the public interest that this article be liberally construed to accomplish the purposes of this Section.

(Code 2006, § 10.05)

#### **11-1-24 Abatement**

- (A) *Enforcement*. The chief of public safety, village forester, building inspector and health officer or their designees shall enforce those provisions of this Chapter that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- (B) *Summary Abatement*. If the inspecting officer determines that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the village president may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (C) *Abatement After Notice*. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, they shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within ten days, the proper officer shall cause the nuisance to be removed as provided in subsection (b) of this section.
- (D) *Other Methods Not Excluded*. Nothing in this Article shall be construed as prohibiting the abatement of public nuisances by the village or its officials in accordance with the laws of the state.



- (E) *Court Order*. Except when necessary under subsection (b) of this section, an officer shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied. If such permission is denied, such officer shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

(Code 2006, § 10.10; Ord. No. O5-2-96, 5-28-1996)

### 11-1-25 Cost of Abatement

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

(Code 2006, § 10.11) State law reference— Special charges, Wis. Stats. § 66.0627.

### 11-1-26 Chronic Nuisance Premises

- (A) *Findings*. The village board finds that any premises that has generated three or more calls for police service, building inspection or the health department for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the village. The village board therefore directs the chief of public safety, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.
- (B) *Definitions*. The following terms shall be defined as follows in this provision.
- (1) *Building Inspection Department Response*. The village building inspector went to the premises for an inspection at the premises and, as a result thereof, a citation is issued for a violation of the building, housing or zoning code.
  - (2) *Chief*. The chief of public safety or the chief's written designee.
  - (3) *Enforcement action*. Arrest, the issuance of a citation, or the issuance of a written or verbal warning.
  - (4) *Health Department Response*. A member of the county health department went to the premises for an inspection at the premises and as a result thereof, a citation is issued for a violation of any provision of the state statutes or administrative code that the health department is responsible for enforcing.
  - (5) *Nuisance activity*. Any of the following activities, behaviors, or conduct occurring on a premises:
    - (a) An act of harassment, as defined in § 947.013, Wis. Stats.
    - (b) Disorderly conduct, as defined in § 947.01, Wis. Stats.
    - (c) Battery, substantial battery, or aggravated battery, as defined in § 940.19, Wis. Stats.

- (d) Lewd and lascivious behavior, as defined in § 944.20, Wis. Stats.
- (e) Prostitution offenses, as defined in § 944.30 or § 944.34, Wis. Stats.
- (f) Littering, as defined in section 9-10, Ashwaubenon Municipal Code.
- (g) Theft, as defined in § 943.20, Wis. Stats.
- (h) Receiving stolen property, as defined in § 943.34, Wis. Stats.
- (i) Arson, as defined in § 943.02, Wis. Stats.
- (j) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in ch. 961, Wis. Stats.
- (k) Gambling, as defined in § 945.02, Wis. Stats.
- (l) Animal violations, as defined in Chapter 4, Ashwaubenon Municipal Code.
- (m) Trespass to land, as defined as §§ 943.13 and 943.14, Wis. Stats.
- (n) Weapons violations as defined in section 9-02, Ashwaubenon Municipal Code.
- (o) Noise violations as defined in section 9-06, Ashwaubenon Municipal Code.
- (p) Violation of curfew for minors, as defined in section 9-15, Ashwaubenon Municipal Code.
- (q) Loitering, as defined in sections 9-07 and 9-15, Ashwaubenon Municipal Code.
- (r) Truancy, as defined in section 9-29, Ashwaubenon Municipal Code.
- (s) Alcohol violations, as defined in Chapter 3, Ashwaubenon Municipal Code and § 125.07, Wis. Stats.
- (t) Obstructing or resisting an officer, as defined in § 946.41, Wis. Stats.
- (u) Misuse of emergency telephone numbers, as defined in § 941.35, Wis. Stats.
- (v) Any act of being party to a crime, as defined in § 939.05, Wis. Stats., any of the activities in paragraphs a.—l., above.
- (w) Any conspiracy to commit, as defined in § 939.31 Wis. Stats. or attempt to commit, as defined in § 939.32 Wis. Stats., any of the activities in paragraphs a.—m., above.

- (x) The execution of arrest or search warrants at a particular location.
  - (y) Village of Ashwaubenon inspection-related calls where the public safety department responds.
  - (z) Village of Ashwaubenon building inspection related calls where the public safety department responds or any building inspection department response.
  - (aa) Brown County Health Officer related calls where the public safety department responds or any health department response.
- (6) *Owner.* The owner of the premises or the owner's agent who has been given written authority by the owner to enter into binding agreements concerning the nuisance premises.
  - (7) *Premises.* An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.
- (C) *Notice.* Whenever the chief determines that the public safety department, building inspection department, or the health department has responded to three or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The chief may also consider whether there has been an effective change in ownership of the premises in calculating occurrences of nuisance activity. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner. The notice shall be delivered as set forth below.
- (D) *Notice procedure.* Notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the records of the village assessor.
- (E) *Abatement plan.* Any owner receiving such notice as set forth above shall meet with the chief, or his/her designee within five days of receipt of such notice. The parties shall review the problems occurring at the property. Within ten days of this meeting, the owner, chief and property tenant, shall meet and discuss an abatement plan, prepared by the property owner, to address and eliminate the nuisance activity on the property. If the tenant is unable or unwilling to meet on such plan, the chief and property owner shall nonetheless meet to discuss such abatement plan. The chief shall provide a written copy of the plan to the tenant. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further police, fire, or inspection contact.

- (F) *Additional nuisance activity.* Whenever the chief determines that additional nuisance activity has occurred at a premises for which notice has been issued as set forth above, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the chief may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.
- (G) *Appeal.* Appeal of the determination of the chief of public safety that the property is a chronic nuisance property, may be submitted to the village board within ten days of notice. Chapter 68, Wis. Stats., shall not apply to such an appeal.
- (H) *First offense.* Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit not less than \$1.00 or more than \$1,000.00.
- (I) *Subsequent offenses.* Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within 24 months after committing a previous violation of this chapter shall forfeit not less than \$200.00 nor more than \$2,000.00.

(Ord. No. O8-2-16, 8-23-2016, Ord. No. O5-1-09, § 1, 6-9-2009)

## **Article 2 - Trees**

### **11-2-70 Purpose and Intent**

It is the policy of the village to regulate and control the planting, transplanting, removal, maintenance and protection of trees and shrubs in the village in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or property of the village; to promote and enhance the beauty and general welfare of the village; to prevent damage to any public sewer or water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the village against the spread of disease or pests. It is the intent of the village board that the provisions of this division shall apply to all trees, shrubs or plants growing or hereafter planted in or upon any public right-of-way or other premises owned or controlled by the village and to all trees or shrubs growing or to be planted in or upon any private premises which shall threaten the lives, health, safety or welfare of the public or the property owned or controlled by the village.

(Code 2006, § 8.07(1); Ord. No. O5-3-96, 5-28-1996)

### **11-2-71 Definitions**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (A) *Aboricultural Specifications Manual* means the urban forestry document for the village that serves as a standard for the planting and maintenance of all trees in public areas by identifying specific practices, policies and procedures.

- (B) *Boulevard* means an island or area of land, of any length or width, in or about the center of a street, which contains grass, trees, shrubs, flowers or other vegetation and which is not surfaced or a part of the traveled portion of the street.
- (C) *Park Board* means the authority that reviews and sets policy and procedures on urban forestry issues recommended by the tree board.
- (D) *Public Property* means any public site, alley, sidewalk, boulevard, terrace strip, street or any other property owned or held by the village within its boundaries.
- (E) *Right-of-Way* means land dedicated to the village and occupied or intended to be occupied for a use such as a public street, sidewalk, crosswalk, water main, storm drains, or any other use requiring maintenance by the village.
- (F) *Terrace* means the land between the normal location of the street curbing and sidewalk, and if there is no sidewalk, the land between the normal location of the street curbing and the edge of the right-of-way.
- (G) *Tree Board* means a subcommittee of the park board. The tree board is the first step in discussions on any forestry issues.
- (H) *Urban Forestry Management Plan* means the urban forestry document for the village that addresses specific goals, guidelines and rationales for the optimization of the village's municipal arboricultural practices.
- (I) *Village Board* means the village board of the Village of Ashwaubenon, County of Brown, Wisconsin.

(Code 2006, § 8.07(2); Ord. No. O5-3-96, 5-28-1996)

#### **11-2-72 Duties and Responsibilities of Tree Board**

The tree board shall have the following duties and responsibilities in the control of trees in the village:

- (A) Control of all trees and shrubs which now or may hereafter exist upon any public property in the village.
- (B) Control the issuing of permits provided for in this division and exercise and all of the power herein granted.
- (C) Delegate all or part of its authority to its subordinates or the village forester as the tree board may determine.
- (D) Control of trees which exist on private property only to the extent as specifically defined within sections 11-77 and 11-79, in addition to section 11-85.

(Code 2006, § 8.07(3); Ord. No. O5-3-96, 5-28-1996)

### **11-2-73 Protection of Trees**

- (A) No person shall remove, destroy, cut, deface or injure any tree existing on any public property in the village or attach any rope, wire, chain, sign or any other device to any tree on any public property in the village.
- (B) No person shall plant, prune, fertilize or spray any tree or shrub existing on any public property in the village or authorize or cause the same to be done except having first obtained permission from the tree board to do so.
- (C) It shall be an unlawful practice for any person, firm or village department to top any street tree, park tree or other public property without authorization from the village tree board. (See the definition of "urban forestry management plan" in section 19-250.)

(Code 2006, § 8.07(4); Ord. No. O5-3-96, 5-28-1996)

### **11-2-74 Placing Stone or Concrete on Ground Adjacent to Tree Trunk Prohibited; Exemption**

No person shall place or maintain upon the ground in any public property any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public property in the village, without first having obtained written permission from the tree board. Sidewalks, driveways and other access walks approved by the tree board shall be exempt from this provision.

(Code 2006, § 8.07(5); Ord. No. O5-3-96, 5-28-1996)

### **11-2-75 Care of Trees During Building Operations**

No person in charge of or responsible for the erection, alteration or removal of any building or structure in the village shall permit any tree upon any public property in the vicinity of such operation to stand without a guard or protection and shall prevent injury, damage or defacement to such a tree and its root system arising out of, in connection with, or by reason of such operation. The quality of the guard or protection is to meet the specifications as addressed in "Trenching and Tunneling Near Trees" by Dr. James R. Fazio, or to be determined by the tree board.

(Code 2006, § 8.07(6); Ord. No. O5-3-96, 5-28-1996)

### **11-2-76 Moving of Trees**

All moving of trees from any public property in the village made necessary by the moving of a building or structure or any other private enterprise shall be done under the supervision of and with the written permission of the tree board, and, at the expense of the applicant, as one of the conditions of obtaining such permission, shall deposit with the village such sum in cash as the tree board may determine and specify to cover all of the cost of moving or replacing such tree if the conditions or permission require the replacement thereof; provided that, in lieu of a cash deposit, the tree board may, in its discretion, accept a bond in a like amount conditioned upon the payment of all the costs of such moving and replacing.

(Code 2006, § 8.07(7); Ord. No. O5-3-96, 5-28-1996)

### **11-2-77 Tree Maintenance**

- (A) The tree board shall maintain any tree on any public property to preserve the function or beauty of such public property in accordance with the art of good shade tree care. The tree board shall trim, remove, prune, spray, fertilize or otherwise treat any tree on any public property when, in the opinion of the tree board, such treatment will promote the general welfare, improve the appearances or alleviate any unsafe condition. All work shall be performed according to the most recent edition of the American National Standards Institute (ANSI) A300 standards.
- (B) The tree board shall, when necessary, prune, remove, or spray any part of a tree that extends over public property though the tree itself stands on private property, after notifying the owner or occupant of its intention in writing ten days prior to such work. The tree board may permit the owner of private property to maintain those branches which do extend over public property and to prune the branches under the tree board's instructions and supervision.

(Code 2006, § 8.07(8); Ord. No. O5-3-96, 5-28-1996)

### **11-2-78 Street Tree Planting Plan**

- (A) *Plan for orderly planting of trees.* The tree board may develop and establish a plan for the orderly planting of trees in the terraces or boulevards along village streets to reduce conflicts between trees and other public use of streets, to facilitate care of the trees, and to make the village a more attractive place in which to live. The plan shall designate the species of tree for each street and shall take into consideration the mature size and requirements of the species, the width of the terrace or boulevard, the depth of setback buildings, the location of streetlights, safety signals and signs, any existing desirable trees and any other site factors.
- (B) *Planting of trees when streets are widened.* When mature trees are removed for the widening of any established street, new trees will be planted if, in the opinion of the tree board, there is adequate land in the terrace or boulevard to reasonably support tree growth. The cost of this planting shall be borne by the village. The tree board shall determine the location and species of each tree to be planted.
- (C) *New streets.*
  - (1) Where new streets are constructed, following the installation of curbing, the tree board shall permit specific species of trees to be planted in the terraces or boulevards of such streets in the proper season. The number and location of each tree, species and size of stock are to be determined by the tree board.
  - (2) Where the new street is in a subdivision, the tree board shall determine the number, location and species of each tree and the size of stock. The cost of planting shall be borne by the subdivider pursuant to Section 20-24.
- (D) *Planting along established streets.*

- (1) When, in the opinion of the tree board, the terraces or boulevards of any established street can be improved by planned tree planting, or when the number of trees in any terrace or boulevard has become so few as a result of normal removal or other cause, the tree board may plant or cause to be planted such trees in the terraces or boulevards as it deems necessary. The tree board may remove, or cause to be removed, those existing trees which, in its opinion, would conflict with the new planting and replanting of terraces or boulevards of such streets; provided that the tree board shall not plant any new trees or remove any existing trees along any established street unless there has been a public hearing on the proposed planting or removal and, at least 15 but no more than 20 days prior to such hearing, notice of the hearing specifying the exact purpose thereof shall have been posted in three conspicuous public properties in the village and published once in a newspaper having general circulation in the village. The cost of the removal of existing trees shall be borne by the village.
- (2) The cost of replanting in the boulevard shall be assessed against owners of adjacent property in the same manner as other special assessments. The cost of replanting in boulevards in any block street in that block in which the boulevard is located in the same proportion that the front footage of each lot or parcel bears to the total front footage of all lots or parcels that abut on such street in that block.
- (3) Should any owner of adjacent property desire to plant a tree on any public property, written permission shall be obtained from the tree board in which the number, species, location and size of the tree shall be designated. The cost of such planting shall be borne by the adjacent property owner.

(Code 2006, § 8.07(9); Ord. No. O5-3-96, 5-28-1996)

#### **11-2-79 Right-of-Way Obstructions**

- (A) It is unlawful for any person to plant, cause to grow, allow to grow, or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign within the village. It shall be the duty of every owner of any such tree, bush, shrubbery or vegetation to remove such obstruction.
- (B) No shrubbery or flowers may exceed 30 inches in the public right-of-way.
- (C) Other regulations regarding vegetation within the public right-of-way are defined within the village's Arboricultural Specifications Manual and must be adhered to along with this article.
- (D) Vision triangle. The provisions of section 5-761 regarding vision triangles shall apply.

(Code 2006, § 8.07(11); Ord. No. O5-3-96, 5-28-1996; Ord. No. O3-3-98, 3-24-1998)

#### **11-2-81 Powers and Duties of Village Forester**

The village forester shall have the powers and perform the duties imposed by this division and by Wis. Stats. § 27.09.

(Code 2006, § 10.06(2); Ord. No. O5-2-96, 5-28-1996) State law reference— City forester, duties, tree planting, etc., Wis. Stats. § 27.09.

#### **11-2-82 Definitions**



The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public property* means any premises owned or controlled by the village, including but not restricted to public sites, parks, streets, alleys, sidewalks, boulevards, and terrace strips between the lot line and the curb.

*Public nuisance* means:

- (A) Dutch elm disease.
- (B) Elm bark beetles *Scolytus multistriatus* or *Hylurgopinus rufipes*.
- (C) Any living or standing elm tree or part thereof, including logs, firewood, stumps or other elm material from which the bark has not been removed and burned, chipped, and/or burned or sprayed.

(Code 2006, § 10.06(3); Ord. No. O5-2-96, 5-28-1996)

### **11-2-83 Inspections**

- (A) *Annual inspection.* The village forester or his duly appointed agent shall survey all places within the village to determine whether any conditions in the public nuisances exist.
- (B) *Entry upon private premises.* The village forester or his duly appointed agent may enter upon private premises at any reasonable time for purpose of carrying out the duties assigned to him in this division. Before making any inspection on private property within the village, the village forester shall give written notice of said inspection to all affected residents and property owners, or by publishing said notice in a local paper of general circulation.

(Code 2006, § 10.06(4); Ord. No. O5-2-96, 5-28-1996)

### **11-2-84 Notice Following Inspection**

- (A) If the village forester finds evidence of disease, infection or the potential for infection of other trees, he shall notify, either personally and/or by certified mail, the owner of the property on which the nuisance is found. Such notice shall describe the nuisance and recommend procedures for its abatement within a period of time specified by the village forester, not to be less than ten days. The notice shall further state that unless the owner abates the nuisance in the manner specified, the village forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the village.
- (B) Any owner of real estate who receives a notice as provided in this section, may request that the village forester obtain a laboratory test of one or more of such trees. Such a request shall be made to the village forester within five days after the date of such notice.

### **11-2-85 Abatement of Nuisance**

- (A) The village forester shall order, direct, supervise and control the abatement of public nuisances by spraying, pruning, removal, burning or other means which he determines to be necessary to prevent the spread of disease, infection, fungus or the insect pests or vectors known to carry such disease, infection, or fungus.
- (B) Whenever the village forester determines that a public nuisance exists on public property in the village, he shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of disease, infection, or the insect pests or vectors known to carry such disease, infection, or fungus.
- (C) When the village forester determines with reasonable certainty that a public nuisance exists upon private premises, he shall serve a written notice as provided in section 11-84 of the existence of such nuisance. An owner thus notified of the existence on his property of a nuisance as described in this division shall abate or direct the abatement of the nuisance within the specified time period indicated on the notice. The abatement of nuisances and disposal of all associated materials shall be done in a manner satisfactory to the village forester, so as to ensure the elimination of the nuisance.
- (D) If the property owner does not initiate abatement procedures in the allotted time, the village forester may then proceed to contract for the prescribed abatement procedures as soon as possible. The cost of abating a public nuisance on private premises, when done at the direction of the village forester, shall be a special charge to the property on which the nuisance is located in accordance with the provisions of Wis. Stat. 66.0627 The village forester shall report to the village clerk all charges resulting from the abatement procedures and the village clerk-treasurer shall mail notice of the amount of such final charge to each owner at his last known address, stating that, unless paid within 30 days of the notice, such will be entered on the tax roll as a special charge.
- (E) If the nuisance tree or wood is located on public property, the cost of abatement of the public nuisance, at the direction of the village forester, shall be borne by the village.

(Code 2006, § 10.06(5), (6); Ord. No. O5-2-96, 5-28-1996)

### **11-2-86 Prohibited Acts**

No person shall:

- (A) Transport any bark-bearing elm wood, elm bark or elm material on public streets or highways or other public premises without first securing the written permission of the village forester;
- (B) Interfere with or prevent any act of the village forester or his agents or employees while they are engaged in the performance of duties imposed by this division;
- (C) Refuse to permit the village forester or his duly authorized representative to enter upon such person's premises at reasonable times to exercise the duties imposed by this division;
- (D) Permit any public nuisance to remain on any premises owned or controlled by him when ordered by the village forester to abate such nuisance.

(Code 2006, § 10.06(7); Ord. No. O5-2-96, 5-28-1996)

### **11-2-124 Penalty**

Any person who shall violate any provision of this division, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a penalty as provided in Chapter 1, Section 1-13 and an additional \$25.00 will be added for each tree directly involved in the violation. Each day such violation exists shall be considered to be a separate offense.

(Ord. No. O10-2-06, § 1(10.08(9)), 10-9-2006)

## **Article 3 - Junked Wrecked and Abandoned Property**

### **11-3-149 Restricted**

No person shall store junked or discarded property, including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood, except in an enclosure which screens such property from public view or upon permit issued by the village board.

(Code 2006, § 9.09(1))

### **11-3-150 Order for Compliance**

The building inspector may require by written order any premises in violation of this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

(Code 2006, § 9.09(2))

### **11-3-168 Definitions**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Motor vehicle and trailer* mean any automobile, truck trailer, semitrailer, tractor, motor bus or any self-propelled or motor-driven vehicle.

(Code 2006, § 9.09(3)(e); Ord. No. 10-1-79, 10-23-1979)

### **11-3-169 Plan Commission to Establish Rules**

The plan commission shall enact such rules and regulations, including, but not limited to, provisions for fencing, distance from highways, etc., for the regulation of the dismantling, accumulation or storage of junked or inoperable motor vehicles and trailers or parts thereof outside of any building as deemed necessary for the public health, safety and welfare.

(Code 2006, § 9.09(3)(a); Ord. No. 10-1-79, 10-23-1979)

### **11-3-170 Permit Required**

No person shall accumulate or store any junked or inoperable motor vehicles or trailers, or parts thereof, outside of any building on any real estate within the village unless a permit is obtained from the village clerk

for such use. The village clerk-treasurer shall not issue a permit unless the application is approved by the building inspector and a fee, which is on file in the office of the clerk-treasurer, is paid to the village clerk-treasurer. All permits shall expire on December 31 of each year and shall be renewed. A renewal application may be denied for violation of this article and, if approval is denied, the building inspector shall state the reasons for disapproval on the application. The village clerk-treasurer shall notify the applicant of the disapproval and the applicant shall be given an opportunity to be heard before the public works and protection committee.

(Code 2006, § 9.09(3)(b); Ord. No. 10-1-79, 10-23-1979)

### **11-3-171 Conformance with Rules and Regulations of Plan Commission**

The building inspector shall not approve an application for a permit to accumulate or store junked or inoperable motor vehicles and trailers, or parts thereof, unless the premises conforms to all of the rules and regulations of the plan commission as follows:

- (A) All material not stored within a building shall be enclosed by a solid fence, which shall meet the following conditions:
  - (1) The fence shall be of chainlink fabric of No. 9 gauge wire or heavier, galvanized or aluminum coated steel; such fence to have an open mesh no larger than three inches and be equal to "U.S. cyclone" or "sentry fence" standards and with slats inserted in the fence which are impervious to sight; and
  - (2) The fence shall be kept in a good state of repair and painted a uniform color; and
  - (3) The fence shall not be less than six feet in height and of uniform height and material. If materials stored exceed six feet in height, such material shall be screened by natural objects or plantings; and
  - (4) The fence shall not be less than 25 feet from the street, curb or road edge.
- (B) No material shall rest upon the fence.
- (C) There shall be no signs, bulletins and posters posted on the fence.
- (D) All properties with such materials in existence on the date of enactment of the ordinance from which these rules and regulations are derived shall conform to these requirements within 90 days.

(Code 2006, § 9.09(3)(c); Ord. No. 10-1-79, 10-23-1979)

### **11-3-172 Enforcement**

The rules and regulations governing the storage of junked or inoperable motor vehicles and trailers or parts thereto shall be enforced by the building inspector.

(Code 2006, § 9.09(3)(d); Ord. No. 10-1-79, 10-23-1979)

### **11-3-173 Authority to Retain**

Any business engaged in automotive sales or repair may retain disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers in the open, on private property, for a period not to exceed 30 days, after which such vehicles must be removed.

(Code 2006, § 9.09(3)(f); Ord. No. 10-1-79, 10-23-1979; Ord. No. O12-6-96, 12-17-1996)

### **11-3-174 Permit Needed to Store in Semitrailer or Van Box**

No semitrailer or van box may be used for storage within the village without first securing a permit from the building inspector. The building inspector may issue a permit not to exceed six months for temporary use for a semitrailer as storage if he feels it would not be unsightly nor diminish the quality of the neighborhood. In the event that the storage is on a construction site, the building inspector may grant an extension if he thinks it is warranted.

(Code 2006, § 9.09(3)(g); Ord. No. 10-1-79, 10-23-1979; Ord. No. O11-2-97, 11-25-1997)