

ORDINANCE NO. 226-14-15

**AN ORDINANCE REGULATING NUISANCES AND
NUISANCE ABATEMENT IN THE VILLAGE OF MENDON, ILLINOIS**

BE IT ORDAINED by the President and Board of Trustees of the Village of Mendon, Adams County, Illinois, as follows:

SECTION 1. All Ordinances and parts of Ordinances dealing with nuisances and the abatement of nuisances in the Village of Mendon are hereby vacated and there is substituted therefor the following:

SECTION 2. It shall be unlawful for any person, firm, corporation or other entity (herein collectively referred to as "Person") to permit the existence of a nuisance in the corporate limits of the Village of Mendon, Adams County, Illinois, whether on public or private property, in violation of the provisions of this Ordinance.

SECTION 3. The following acts, conduct, circumstances and conditions are hereby declared and defined to be nuisances and, when committed, performed or permitted to exist by any person are hereby declared to be unlawful and prohibited:

3.1 **Common law nuisances:** To commit, perform or permit any act or offense which is a nuisance according to the common law of the State of Illinois.

3.2 **Defined nuisance:** To commit, perform or permit any act or offense declared or defined to be a nuisance by this Ordinance, by any of the ordinances of the Village of Mendon or any laws of the State of Illinois.

3.3 **Undefined nuisance:** To commit, perform or permit any act, conduct, circumstances or condition which constitutes an unreasonable, unwarrantable or unlawful use by a person of property, real or personal, which works an obstruction or injury to a right of another or of the public and produces such material annoyance, inconvenience, discomfort, hurt or injury that the law will presume an actionable nuisance.

3.4 **Litter:** To dump, deposit, drop, throw, discard, leave, cause or permit the dumping, depositing, dropping, throwing, discarding, or leaving of litter upon any public or private property in the Village of Mendon even if the property owned by the person or the person is legally in possession of the property as a tenant, unless:

(a) The litter is placed into a receptacle or other container designed for and intended by the owner or tenant in lawful possession of that property for the lawful deposit of litter.

(b) The person is acting under the direction of a proper public official during special cleanup days.

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

For the purposes of this provision, unless the context otherwise requires, "litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings, or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle or inoperable or unlicensed vehicle, motor vehicle parts, furniture, appliances, brush, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard or any offal or noisome substance.

3.5 Litter accumulation: To allow litter to accumulate upon real property, of which the person charged is the owner, agent, occupant or person in possession, charge or control, in such a manner as to constitute a public nuisance or in such a manner that the litter may be blown or otherwise carried by the natural elements onto the real property of another person. For purposes of this provision, litter shall have the meaning as defined immediately above.

3.6 Trees and plants: To allow any tree, shrub, vine, grass or other plant, or part thereof within the Village of Mendon to remain if the same is dead, dangerous or liable to fall upon neighboring buildings or other improvements or the same is infested with injurious insect pests or infected with plant diseases which are liable to spread to other plants or other places to the injury thereof, or to the injury or damage of man or animal.

3.7 Water pollution: To own, maintain, construct, use or control any unsafe or dangerous water or plumbing system, in violation of the standards and provisions of Ordinances of the Village of Mendon or state laws and regulations.

3.8 Obstructions: To obstruct or encroach upon public highways, private ways, streets, alleys or parks.

3.9 Noxious exhalations: To use any property for the exercise of any trade, employment or manufacture which, by causing noxious exhalations, offensive smells or noise, is offensive or dangerous to the health of individuals or of the public.

3.10 Unsafe or dangerous structures: To own, maintain, keep, let, use or occupy any building, structure, lot, premises, fence or any other man-made structure (in this Section collectively referred to as "structure") which is unsafe or dangerous.

For purposes of this provision, structure shall be considered unsafe or dangerous if any one or more of the following conditions exist with respect to the structure or any portion thereof:

(a) The structure or any portion thereof is designed or intended for human habitation and is unfit for such purpose.

(b) The structure or any portion thereof is in violation of the housing standards imposed by local, state or federal laws, ordinances, rules and regulations.

(c) The structure or any portion thereof because of lack of repair or maintenance is in a condition that is detrimental to life, health or safety.

(d) The structure or any portion thereof is dangerous to life, health or safety because of the existence of contagious diseases or unsanitary conditions likely to cause sickness, disease, illness, or harm to its occupants, if any, or other persons.

(e) The structure or any portion thereof is kept in such a condition that it or its contents cause noxious exhalations or offensive smells.

(f) The structure or any portion thereof, because of faulty construction, age, deterioration, lack of proper repair, previous fire or any other cause or condition, is subject to fire and constitutes or creates a fire hazard.

(g) The structure or any portion thereof, because of faulty construction, age, deterioration, lack of proper repair, previous fire or other cause, is liable to collapse.

(h) The structure or any portion thereof, because of lack of secure windows or doors, or because of the presence of openings, is available to or open to malefactors, disorderly persons, trespassers, minors or any other persons who are not the lawful or proper occupants of the structure.

(i) The structure or any portion thereof is under construction or has been under construction and remains uncompleted for an unreasonable period of time or the construction thereof is not diligently and promptly pursued to completion.

(j) The structure or any portion thereof contains violations of any Village of Mendon ordinance, law, rule, regulation or code or provision which establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards with respect thereto.

(k) The structure or any portion thereof has been damaged or destroyed by fire and is not promptly demolished, removed, reconstructed, rebuilt or repaired or any hole resulting after demolition or removal of a structure not promptly filled with earth, stone, concrete or solid fill to ground level.

(l) The structure or any portion thereof is otherwise a dangerous and unsafe structure.

It shall not be a defense to any of the foregoing that the structure is boarded up or otherwise enclosed nor may any court order a structure to be boarded up or otherwise enclosed. It shall also not be a defense to any action that a structure is not occupied or utility services terminated or suspended.

3.11 **Rats:** To store or place any materials in a manner which is likely to harbor rats.

SECTION 4. Abatement Notice

4.1 **Generally:** The owner, agent, occupant or person in possession, charge or control of any land, structure, premises, item or object, real or personally in or upon which any nuisance exists shall be served with a notice to abate the same within a specified reasonable time in such manner as the notice shall direct or in any other reasonable manner. The time allowed by such notice shall, in any event, be considered reasonable if ten (10) days notice is given. Fifteen (15) days notice shall be considered reasonable with a nuisance of an unsafe or dangerous structure as provided in Section 3.10.

4.2 **Person giving notice:** A notice to abate a nuisance may be given by the Mayor or any person designated by the Mayor.

4.3 **Service of notice:** The notice to abate shall be served upon the person either personally or by certified mail, return receipt requested. Where the person is unknown or cannot be located, then by posting the notice upon the land where the nuisance exists. If any nuisance relates to any unsafe or dangerous structure, a copy of the notice shall also be sent to any lien holders of record on the real estate where the nuisance exists, and if the owner cannot be located, the notice may be mailed to the person and at the address shown on the most recent real estate tax bill for the subject property.

4.4 **Contents of notice:** Every notice served under this section shall, in addition to requiring the abatement of nuisance, state the nature of the nuisance and the directed method of abatement and warn the person to which the notice is directed that a failure to accomplish such abatement within the time stated may result in the abatement of the nuisance by the Village of Mendon and that the cost or expenses related to such removal by the Village of Mendon shall be charged to the person. A copy of this ordinance shall be furnished to the person receiving the notice.

SECTION 5. Non-summary abatement

5.1 **Agreeing to abate nuisance:** If a nuisance is not timely abated after notice is given in accordance with this Ordinance, the Village of Mendon may immediately proceed to abate or remove the nuisance after the time limit stated in the notice has expired irrespective of whether a charge is filed alleging violation of this Ordinance.

5.2 Methods of abatement: If abatement is authorized under this Section the Village of Mendon may abate or remove the nuisance in any and all of the following manners, except as may be otherwise ordered by a court of competent jurisdiction:

(a) Proceeding to abate or remove such nuisance using Village employees or others in any reasonable manner. In the case of a dangerous or unsafe structure, abatement may be by causing demolition or repair of the structure.

(b) Any other manner allowed by law and reasonable under the circumstances.

(c) Any manner authorized by a court of competent jurisdiction.

The proposed method of abatement shall not limit the method of abatement which may be used unless otherwise ordered by the court or diminish the discretion of the court to order that the person charged abate a nuisance or enter any other appropriate order.

SECTION 6. Summary abatement

Whenever in the opinion of the Mayor and the majority of the Trustees of the Village of Mendon, continuation of a nuisance creates an imminent threat of serious injury to persons or serious or unreasonable damage to personal or real property, the Mayor may immediately proceed to cause the abatement of such nuisance in any reasonable manner if circumstances do not allow implementation or full implementation of non-summary abatement procedures. Whenever the owner, occupant, agent or person in possession, charge or control of the real or personal property which has become a nuisance is unknown or cannot readily be found the Village of Mendon may proceed to abate such nuisance without notice.

SECTION 7. Costs of abatement.

7.1 Generally: Whenever the Village of Mendon abates a nuisance pursuant to this Ordinance or as otherwise allowed by ordinances of the Village of Mendon, the costs of expenses shall be a lien on the real estate where the nuisance existed. The Village of Mendon shall collect the costs and expenses thereof in accordance with this Section.

7.2 Notice of cost: Within sixty (60) days after the costs or expenses are incurred to abate or remove a nuisance, the Mayor, Village Clerk or Village Treasurer shall give, or cause to be given, a statement notifying the owner of the real estate where the nuisance existed and the person to whom or which the notice to abate a nuisance was sent, setting forth the cost or expenses incurred by the Village of Mendon to abate or remove the nuisance. It shall be sufficient to give the statement personally or by U.S. mail postage prepaid sent to the same address as the original notice and to the owner at the last known address. If the owner of the real property cannot be ascertained, even from the tax records of Adams County, Illinois, the statement may be posted on the premises. If the owner is known but the address of the owner is unknown, the notice may be sent to the address on the most recent real estate tax bill.

7.3. **Certification:** If the costs are not paid within thirty (30) days after the date of the notice of costs, the Village of Mendon shall record a notice of lien in the office of the Recorder of Deeds, Adams County, Illinois. The notice of lien shall certify the costs of the nuisance abatement remaining unpaid and shall include the legal description and parcel index number of the real estate upon which the nuisance existed that was abated by the Village of Mendon.

7.4 **Foreclosure of Lien:** The lien created by this Ordinance may be foreclosed by proceedings as in mechanic's lien foreclosures. An action to foreclose the lien created by this Ordinance may be commenced at anytime after the date of the filing of a notice of lien and the costs of foreclosure incurred by the Village of Mendon, including court costs, attorney fees, costs of abatement of the nuisance, and any other costs related to the enforcement of this Section, plus statutory interest from the time of the nuisance abatement, are a lien on the real estate and are recoverable by the Village of Mendon from the owner or owners of the real estate.

SECTION 8. Immunity.

Neither the Village of Mendon its officers, trustees, employees, agents, nor any person or entity abating a nuisance pursuant to this Ordinance shall be liable for any damage for such action brought by any owner, agent, lien holder occupant or person in possession of the property involved. This immunity shall be in addition to any immunity otherwise existing by law.

SECTION 9. Other remedies.

This Ordinance shall not limit any other rights or remedies of the Village of Mendon provided by any other ordinance, state statute, law, rule or regulation regarding the abatement of nuisances.

SECTION 10. Penalty.

Any person, firm or corporation violating any of the provisions of this Ordinance shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each offense. Each day of violation of the Ordinance shall be considered a separate offense. In addition, the Village may seek injunctive relief or other relief as the law may afford. In addition to the foregoing, any person in violation of this Ordinance shall be responsible for and pay to the Village the "processing costs", which shall include attorney fees, court costs, employee time or other out-of-pocket costs in connection with the enforcement of this Ordinance.

SECTION 11. Effective Date.

This Ordinance shall be in force and effect from and after its passage and approval.

SECTION 12. Conflicts of Ordinances.

All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance shall be, and the same are, to the extent of such conflict, hereby repealed.

ADOPTED: July 10,, 2014

APPROVED: July 10,, 2014

Dean Woodruff
Village President

ATTEST:

Susan Woodruff
Village Clerk

PUBLISHED: _____, 2014