

**CHAPTER 91: HEALTH AND SAFETY; NUISANCES**

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***PHOSPHORUS-CONTAINING FERTILIZERS***

**§ 91.001 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***COMMERCIAL APPLICATOR.*** A person who is engaged in the business of applying fertilizer for hire.

**FERTILIZER.**

- (1) A substance containing nitrogen, phosphorus, potash, or any other recognized plant nutrient element or compound which is used primarily for its plant nutrient content.
- (2) **FERTILIZER** shall not include the following natural products:
  - (a) Agricultural limestone;
  - (b) Marl;
  - (c) Sea solids and unprocessed animal manure, which have not been manipulated so as to alter or change them chemically;
  - (d) Burnt or hydrated lime; and
  - (e) Sewage sludge produced by any sanitary district.
- (3) These natural products shall not be subject to the provision of this subchapter.

**NON-COMMERCIAL APPLICATOR.** A person who applies fertilizer, but who is not a commercial applicator.

(Ord. 5-2-C, passed 10/15/2008)

**§ 91.002 PROHIBITION.**

No commercial or non-commercial applicator, including homeowners and renters, shall apply to any area within the Village any fertilizer, liquid, or granular, which contains any amount of phosphorus or other compound containing phosphorus, such as phosphate, except:

- (A) The naturally occurring phosphorus in unadulterated natural or organic fertilizer products such as yard waste compost; or
- (B) As otherwise provided under exemptions in this subchapter.

(Ord. 5-2-C, passed 10/15/2008) Penalty, see § 91.999

**§ 91.003 EXEMPTIONS.**

- (A) *Generally.* The following are exemptions to the prohibitions described in this subchapter.
- (B) *Specifically.*
  - (1) (a) The prohibition against the use of fertilizer containing phosphorus shall not apply to turf and lawn areas for which soil tests confirm the ambient phosphorus content is below median phosphorus levels for typical area soils.
  - (b) The scope of this exemption shall only be for the volume or concentration of phosphorus necessary to permit the turf or lawn area to contain levels equal to the median phosphorus levels for typical area soils.
  - (c) Phosphorus applied as fertilizer pursuant to this exemption shall be integrated into the soil where it is immobilized and generally protected from loss by storm water runoff.

- (2) (a) The prohibitions contained in this subchapter shall not apply to any farming or agricultural business, provided the use of fertilizers is related to the growth of a product or maintenance of growing fields.
- (b) Appropriate steps should be taken to integrate the fertilizer into the soil where it is immobilized and generally protected from loss of storm water runoff.
- (c) This exemption shall not apply to the standard lawn area of the farm or agricultural business.

(Ord. 5-2-C, passed 10/15/2008) Penalty, see § 91.999

#### **§ 91.004 SIGNS.**

Any person, firm, or corporation or partnership which sells fertilizer at retail shall be required to post a sign at the point of sale for fertilizer containing the following legend: “The Village of Port Barrington prohibits the application of fertilizer containing phosphorus.”

(Ord. 5-2-C, passed 10/15/2008)

#### **§ 91.015 DONATION BOXES.**

- (A) *Donation Box Defined:* A donation box is a freestanding accessory structure, container, receptacle, or similar device that is used for soliciting and collecting donations of clothing or other salvageable personal property, provided however, that this term excludes any unattended donation boxes located within a secured building.
- (B) *Donation Boxes Restricted:* Donation boxes are hereby declared to be a public nuisance and are hereby prohibited anywhere within the Village unless all of the following conditions are met:
  - (1) Such donation box is directly related to an existing lawful use of the property;
  - (2) Such donation box is owned and operated by the owner of the property on which it is located; and
  - (3) A building permit was secured for such donation box in advance of the installation thereof pursuant to the requirements of Chapter 150, “Building Regulations”, of this Code.
  - (4) Installation of a donation box on any residential property within the Village is strictly prohibited.
- (C) *Donation Box Abatement; Costs as a Lien:* A donation box and any contents thereof located and/or maintained in violation of this Section may be abated by the removal of same if the owner of the parcel, after reasonable notice, refuses to do so, and the Village may collect the reasonable cost of such removal from the owner of the parcel. The Village’s removal cost shall constitute a lien on the parcel in accordance with 65 ILCS 5/11-20-13 and 65 ILCS 5/11-20-15 of the Illinois Municipal Code.

(Ord. 2014-5-2-E, passed 08/20/14)

**§ 91.016 SNOW AND ICE REMOVAL**

- (A) Duty to Remove from Sidewalks: It shall be the duty of every owner, lessee, tenant, occupant or other person having charge of any premises located in the village which abuts upon any public sidewalk or upon any public walking path, or any private sidewalk or walking path, abutting a public right-of-way to keep such sidewalk or walking path free from snow as hereinafter provided, and such person(s) having charge of such premises shall be required to remove the snow which accumulates within twenty four (24) hours after the same has accumulated to a depth of two inches (2”).
- (B) Deposits on Streets and Sidewalks Prohibited; Nuisance Declared: No person, firm, or corporation or their agent who removes or causes to be removed any snow or ice from any building, private property, parking lot, driveway, driveway apron, driveway approach, or any public sidewalk or walking path shall sweep, blow, plow, shovel, scrape, drag or in any other manner move or deposit snow or ice in such a way as to decrease the drivable width of any street or alley, block the vision of motorists at any intersection, prevent parking at a curb, cover any fire hydrants or otherwise interfere with their use, block any public sidewalks or walking paths or driveways, damage parkway trees, sod, or curbing within a public right of way, or otherwise create any traffic hazard or destruction of property.
- (C) Interference With Snow Removal Operations Prohibited: It shall be unlawful for any person, firm, or corporation or agent thereof to obstruct, harass, prevent, or otherwise interfere with any employee or contractor of the Village who is engaged in snow removal service or to obstruct, cause damage to, or otherwise interfere with any Village owned or leased vehicle used in snow removal services.
- (D) Any snow or ice not removed or deposited in violation of this Section shall be and is hereby declared to be a public nuisance.

(Amd. Ord. 2020-06-01, passed 06/17/20)

**§ 91.017: DEPOSITS ON PUBLIC WAYS:**

- (A) Harmful Deposits: It shall be unlawful to deposit on any public street, road, sidewalk, walking path, or other public way or public place any material which may be harmful to the pavement thereof, or any waste material, or any glass or other sharp objects, or any other article or substance which may cause injury to any person, animal or property.
- (B) Any such deposits on any street, road, or sidewalk, walking path, or other public way or public place shall be and constitute a public nuisance.

(Amd. Ord. 2020-06-01, passed 06/17/20)

**§ 91.018: OBSTRUCTIONS OF PUBLIC WAYS:**

- (A) Obstructions and Encroachments Generally:

- (1) Except as otherwise specifically provided by this Code, it shall be unlawful for any person to cause, create or maintain any obstruction of, or encroachment upon any street, road, sidewalk, walking path, or other public way or public place, whether on, above or below ground level, except as may be specifically authorized by the Corporate Authorities or by the Village President.
- (2) Streets, roads, sidewalks, walking paths, and other public ways and public places shall be kept free and clear of all obstacles, overhanging and otherwise (including vehicles), to allow pedestrians the full, unobstructed utilization thereof, except as may be specifically authorized by the Corporate Authorities or by the Village President.

(B) Any such obstruction or encroachment of or upon any public street, road, sidewalk, or walking path, or other public way or public place shall be and constitute a public nuisance.

(Amd. Ord. 2020-06-01, passed 06/17/20)

### ***FALSE ALARMS***

#### **§ 91.030 RESPONSE CHARGES.**

- (A) When the Village Police Department or authorized Village official responds to false alarms received from the same premises more than three times in any 12-month period, the alarm user or subscriber shall pay the Village the following amount within 30 days after receiving notification of the fourth false alarm:
  - (1) Four to ten responses occurring in a calendar year, \$50 each; and
  - (2) After ten responses occurring in a calendar year, \$100 each.
- (B) If payment is not received within the 30-day period, as provided above, the charge for the response shall be increased to double the amount of the initial response charge.
- (C)
  - (1) Within 30 days after each false alarm, the Chief of Police or authorized Village official shall notify the user by mailing a notice to the address from which the false alarm was received.
  - (2) If the alarm user believes that the alarm was not a false alarm, he or she shall reply to the Chief of Police or authorized Village official within ten days, stating the reasons why the alarm was not a false alarm.
  - (3) The Chief of Police or authorized Village official shall determine, based upon Police Department records and the user's reply, whether or not the alarm was false and so notify the user.

(Ord. 6-7-A, passed 11/21/2001)

#### **§ 91.031 DISCONNECTION FROM SYSTEM.**

- (A) More than five false alarms in a calendar year from any alarm system may constitute grounds for a disconnect of the alarm system.

- (B) (1) The Chief of Police or authorized Village official may cause an alarm user to be disconnected from the alarm panel after giving written notice to the subscriber.
- (2) The subscriber will be given the opportunity to be heard on appeal to the Village President within seven days, upon a determination that the subscriber's alarm system has been installed, maintained, or operated in violation of any of the provisions of this subchapter, or for failure to pay any applicable fees or charges.

(Ord. 6-7-A, passed 11/21/2001)

## ***NOISE CONTROL***

### **§ 91.045 DEFINITIONS.**

For the purpose of this Chapter, the following terms shall have the meanings ascribed to them as set forth below:

***AMBIENT SOUND LEVEL:*** Means the sound level of all-encompassing sound associated with a given environment, being usually a composite of sound from many or differing sources generated from a single parcel of property or a single commercial activity.

***CONSTRUCTION ACTIVITY:*** Means any activity involving building, construction, remodeling, excavation, grading, backfilling, other earth movement, or other site work, loading or unloading of equipment, or paving, or similar activities.

***PERSON:*** Means any natural person, firm, company, corporation, partnership, limited liability company, or any other legal entity.

(Ord. 2019-09-03, passed 09/18/2019)

### **§ 91.046 PURPOSE; EXCEPTIONS.**

- A. The purpose of this subchapter is to maintain a peaceful and quiet atmosphere within the Village limits, and to curtail noise or other acts which disturb and/or tend to disturb the peaceful enjoyment of the Village, and the Noise Control Regulations of this subchapter shall prevail and control, except to the extent inconsistent with the provisions of Article II, "Alcoholic Beverages", of Chapter 114, "Business Registration and Licensing", and Chapter 115, "Special Events", of this Village Code, in which cases the express language of said Chapter 114 and/or Chapter 115 shall be applicable and control.
- B. Sound emitted from any source on any property shall be determined at a distance of not less than one hundred feet (100') from the property line of the property on which the sound source is located.
- C. Exempt from the provisions of this Chapter relative to noise control are sound(s) emitted from and/or generated by authorized emergency vehicle(s) of law enforcement and/or fire/EMS agencies, emergency warning devices, audible police or fire alarms, school buses, garbage trucks and similar vehicles, and municipal vehicle(s) or municipal equipment operated on Village rights-of-way and/or on public property.

(Ord. 5-1-A, passed 11/21/1990; Amd. Ord. 2019-09-03, passed 09/18/2019)

**§ 91.047 CONSTRUCTION ACTIVITY; HOURS AND NOISE LIMITATIONS.**

- (A) It shall be unlawful for any person to perform, permit, allow, or cause any construction activity within the Village:
  - (1) Prior to 7:00 a.m. or later than 10:00 p.m., Monday through Friday;
  - (2) On Saturdays, prior to 8:00 a.m. or later than 10:00 p.m.;
  - (3) On Sundays prior to 9:00 a.m. or later than 8:00 p.m.
- (B) Under no circumstances shall amplified sound be considered to be construction activity, or any part thereof.

(Ord. 5-1-A, passed 11/21/1990; Amd. Ord. 2019-09-03, passed 09/18/2019) Penalty, see § 91.999

**§ 91.048 NUISANCE NOISE PROHIBITED.**

- (A) Noise Prohibited: It shall be unlawful for any person to make, allow, permit, cause and/or continue any excessive, unnecessary, repeated, and/or unusually loud noise and/or any noise which disturbs, injures, and/or endangers the comfort, repose, health, peace and/or safety of any other person(s), including but not limited to such noise which is the result of any live, amplified and/or broadcast music, and/or the repeated barking of dog(s) or the repeated sound(s) of other animal(s).
- (B) In the event a violation of the Noise Control Regulations of this Chapter and/or of the Nuisance Noise provisions of Chapter 114 of this Village Code (the regulations of both sections are sometimes collectively referred to as the Village “Noise Regulations”) is alleged by any person and such complaint is received by any officer, employee, or agent of the Village, such Noise Regulations may be enforced by any officer or employee of any police department or by any other law enforcement officer serving the Village, whether such complaint is verbal, in writing, or in telephonic or other electronic form.

(Ord. 5-1-A, passed 11/21/1990; Amd. Ord. 2019-09-03, passed 09/18/2019) Penalty, see § 91.999

***GENERAL HEALTH AND SAFETY PROVISIONS***

**§ 91.080 PURPOSE.**

The purpose of this subchapter is to prohibit or suppress any act or use of property that is detrimental, or liable to be detrimental, to the health and safety of the people of the Village.

(Ord. 5-2-A, passed 4/15/1970)

**§ 91.081 HEALTH AND SAFETY COMMITTEE.**

- (A) The Health and Safety Committee, as designated by the Village Board of Trustees, shall act as a board of health.
- (B) The enforcing officer shall be the Chairperson of the Health and Safety Committee or, at the request of the above, the Committee shall designate an enforcing officer.

(Ord. 5-2-A, passed 4/15/1970)

**§ 91.082 POWERS OF THE COMMITTEE.**

- (A) The Health and Safety Committee, or its designates, is authorized to inspect buildings, land, or other places for conditions in which the health and sanitation of the community may be affected.
- (B) Any nuisance, as declared in this subchapter, or condition detrimental to the health of the residents of the Village found to exist shall be corrected.
- (C) The Committee, or its designates, shall have the authority to order the owner, occupant, or user of the offending condition to make any necessary change to remove the source or the cause of the health hazard.

(Ord. 5-2-A, passed 4/15/1970)

**§ 91.083 NUISANCES.**

Nuisances, as constituted under this subchapter, are:

- (A) Buildings, either occupied or unoccupied, that are an exposed public hazard, as a source of filth, or in a condition prejudicial to the health and safety of the public;
- (B) The rental or lease of properties declared unfit for human habitation by the Committee or designates;
- (C) The accumulation of garbage, rubbish, or other obnoxious wastes, whether human, industrial, or commercial;
- (D)
  - (1) Garbage not in containers, fly-proof, or animal-proof; and
  - (2) Garbage or rubbish containers shall be kept hidden from view or a minimum of 30 feet from the public right-of-way, except on the day of collection.
- (E) The pollution, by sewage, industrial waste, or garbage, of any body of water or source of water such as a well, cistern, spring, channel, lake, underground watertable, river, or stream;
- (F) Air pollution, involving smoke, gas fumes, soot, cinders, burning of wet leaves, odorous garbage or putrid substances, or vapor in unreasonable volume;
- (G) The emission of any toxic gas, vapor/fumes, smoke, or dust from equipment or premises, in volume sufficient to be a health hazard to employees, occupants, or any person, inside or outside the premises;
- (H) Diseased animals running at large;
- (I) The remains of dead animals not disposed of within a 24-hour period;
- (J)
  - (1) Animals, including fowl, kept in residential areas; and
  - (2) The exceptions are caged pets, dogs, and cats.
- (K) Vermin infestation which could involve the transmitting of communicable diseases;
- (L) Drinking utensils, or eating utensils, used in public or semi-public places that are not properly sterilized or sanitized after each use; and



(M) Putrid foods or liquids for human consumption, presented as salable to the public.

(Ord. 5-2-A, passed 4/15/1970) Penalty, see § 91.999

#### **§ 91.084 REGULATION OF INDIVIDUAL SEWAGE DISPOSAL SYSTEMS.**

- (A) The regulation of individual sewage disposal systems requiring minimum standards governing design, construction, and installation of septic tanks and/or soil absorption systems is covered under Titles V and XV.
- (B) Privies and chemical toilets are also included in Titles V and XV.
- (C) No proprietary devices for individual sewage disposal with either mechanical or aerobic treatment shall be used except where normal sub-surface disposition cannot be made without undue hazard.
- (D) All proprietary devices affording aerobic treatment for individual sewage disposal shall be presented to the Building and Zoning Committee and the Health and Safety Committee for conformation to the building code and health requirements.
- (E)
  - (1) All proprietary devices shall be registered with the Building and Zoning Committee and a complete servicing program presented by the engineer, contractor, or owner.
  - (2) These units shall be checked periodically by the Building Inspector for proper operation.
- (F) It shall be unlawful to discharge or cause to be discharged the effluent of any septic tank, disposal field, mechanical treatment plant, or the contents of a privy or a chemical toilet, directly or indirectly to any stream, ditch, ground surface, or abandoned well, or maintain or operate an individual sewage disposal system in any way that will become offensive, dangerous, or a hazard to the public health.

(Ord. 5-2-A, passed 4/15/1970) Penalty, see § 91.999

#### **§ 91.085 REGULATION OF SEWAGE AND WASTE DISPOSAL FROM BOATS.**

- (A) No boat with toilet facilities may be on any of the navigable waters within the Village limits unless the toilet facilities are closed and sealed to prevent the use and discharge therefrom.
- (B) No person shall throw, dump, or dispose of garbage, rubbish, waste, or sewage into waters within the Village limits.

(Ord. 5-2-A, passed 4/15/1970) Penalty, see § 91.99

#### **§ 91.086 ENFORCEMENT.**

The Health and Safety Committee, or its designates, shall act as enforcing principals and it shall be the duty of the Village Attorney to prosecute violators of this subchapter.

(Ord. 5-2-A, passed 4/15/1970)

**§ 91.087 HEARINGS.**

- (A) Any person affected by an order or notice of violation of this subchapter with regard to enforcement of any rule may file, in the Village Clerk's office, a written request for a hearing before the Health and Safety Committee.
- (B) The Health and Safety Committee shall hold a hearing within 30 days of the written request.
- (C) The petitioner for the hearing shall be notified of the time and place of the hearing five days prior to the date of the hearing.
- (D) If the facts presented at the hearing show that strict compliance with the order or notice would cause to be properly protected and justice would be best served by granting a variance from the order or notice, the Committee may grant that variance.
- (E) The Committee or the petitioner may include a doctor or expert testimony, in specific cases, as reference.
- (F) However, the Committee could request requirements, other than those in the order or notice, for the purpose of properly protecting the public health.
- (G) The Committee shall make a decision within ten days after the hearing and shall, in writing, notify the petitioner of the decision.
- (H) The decision of the Committee shall be on file in the Village Clerk's office.

(Ord. 5-2-A, passed 4/15/1970)

**§ 91.999 PENALTY.**

- (A) Any person violating any provision of this Chapter shall be subject to the penalties as set forth herein in § 10.99.
- (B) The continued existence of the violation each day shall constitute a separate offense.

(Amd. Ord. 2013-5-1-B, passed 10/16/2013)