

**ORDINANCE NO. 01 -2018**

**AN ORDINANCE WHICH REPLACES EXISTING CHAPTER 9 (PEACE AND ORDER) AND EXISTING CHAPTER 10 (PUBLIC NUISANCES) WITH A NEW CHAPTER 9 (PEACE, ORDER, & NUSIANCES)**

**SECTION I:** CHAPTER 9 and CHAPTER 10 of the Ephraim Code of Ordinance are hereby amended by deleting it their entirety which currently read: *\*(full copy of proposed ordinance available at administration office or at "community news" page on village website)*

**SECTION II:** CHAPTER 9 of the Ephraim Code of Ordinance is hereby amended by adding the following: *\*(full copy of proposed ordinance available at administration office or at "community news" page on village website)*

**SECTION III:** If any section, subsection, paragraph or sentence of this ordinance is for any reason deemed unconstitutional or otherwise unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance.

**SECTION IV:** This ordinance shall take effect upon its passage and publication according to law.

Passed and approved by the Village Board of Trustees at its regular meeting on the \_\_\_\_\_ of February, 2018.

VILLAGE OF EPHRAIM

By: \_\_\_\_\_ Mike McCutcheon, President

Attest: \_\_\_\_\_ Andrea Collak, Clerk

Published this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

**\*\*\* FULL COPY OF PROPOSED CHANGES CAN BE VIEWED AT EPHRAIM ADMINISTRATIVE OFFICE OR AT "COMMUNITY NEWS" PAGE ON VILLAGE WEBSITE**

**SECTION I:** CHAPTER 9 and CHAPTER 10 of the Ephraim Code of Ordinance are hereby amended by deleting it their entirety which currently read:

**CHAPTER 9**

**PEACE AND ORDER**

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**OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE**

**OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.** The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Village, provided the penalty for commission of such offenses here-under shall be limited to a forfeiture imposed **under 25.04 of this Code of Ordinances.**

59.54(25)+961.42	Possession of Marijuana; Prohibited Acts-Penalties
167.10	Fireworks Regulated
175.25	Illegal Storage of Junked Vehicles
218.0147	Motor Vehicles/ Sale to Minor
254.76	Careless Smoking
285.30	Pollution by Motor Vehicle/ Failure to Repair
940.19 (1)	Battery; Class A; Misdemeanor
940.225 (3m)	Fourth Degree Sexual Assault
941.01	Negligent Operation of Vehicle
941.10	Negligent Handling of Burning Material
941.12 (2)	Interfering with Fire Fighting
941.13	False Alarms
941.20 (1)	Reckless Use of Weapon
941.23	Carrying a Concealed Weapon
941.235	Carrying Firearm in Public Building
941.24	Possession of Switchblade Knife
941.36	Fraudulent Tapping of Electric Wires, Gas or Water Meters or Pipes
941.37 (2)	Obstructing Emergency or Rescue Personnel
942.01	Defamation
942.03	Giving False Information for Publication
942.05	Opening Letters
942.06	Use of Polygraphs and Similar Tests
943.01	Criminal Damage to Property (less than \$1,000)
943.11	Entry Into Locked Vehicle
943.125	Entry Into Locked Coin Box
943.13	Trespass to Land
943.14	Criminal Trespass to Dwellings
943.145	Criminal Trespass to a Medical Facility
943.15	Entry Into a Construction Site or Into a Locked Building, Dwelling or Room
943.20	Theft (Less Than \$500)
943.21	Fraud on Hotel or Restaurant Keeper (\$500 or less)
943.22	Use of Cheating Tokens
943.23 (2)	Operating Vehicle Without Owner's Consent
943.24	Issue of Worthless Checks (under \$500)
943.34	Receiving Stolen Property (value less than \$500)
943.37	Alteration of Property/Identification Marks
943.38 (3)	Forgery

943.41	Credit Card Crimes (Less Than \$500)
943.45	Obtaining Telecommunications Service by Fraud (\$500 or less).
943.50	Retail Theft (\$500 or less)
943.61	Theft of Library Material (under \$500)
944.15	Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
994.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.32	Soliciting Prostitutes
944.36	Solicitation of Drinks Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42 (1)	Escape
946.67	Compounding Crime
946.69	Falsely Assuming to Act as Public Officer or Employee
946.71 (1)	Impersonating Peace Officer
946.72 (2)	Tampering With Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.04	Drinking on Common Carriers
947.06	Unlawful Assemblies
948.40	Contributing to the Delinquency of Children
951.1	Crimes Against Animals

**DECLARATION OF PURPOSE.** With full recognition of the principles of individual freedom of thought and action, it is universally recognized that the protection of the safety, comfort, security, rights and privileges of all members of a community and the protection of their property requires the adoption of and compliance with certain regulations of personal conduct.

## **9.01 OFFENSES ENDANGERING PUBLIC SAFETY AND HEALTH.**

- 1. MISSILES.** (a) **DISCHARGING AND CARRYING FIREARMS AND GUNS.** No person, except a sheriff, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun of any description within the Village or have any such weapon in his possession or under his control, unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, provided that this section shall not prevent the maintenance and use of supervised rifle or pistol ranges or shooting galleries authorized by the Village Board or the firing or discharging of BB guns upon private premises by persons over 16 years of age or under the direct personal supervision of a parent or guardian if under 16 years of age.  
  
b. **OTHER MISSILES PROHIBITED.** No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile by hand or by any other means at any other person or at, in or into any building, street, sidewalk, alley, highway, park, playground, water, watercourse, or stream or other public place within the Village. Use of bows and arrows within the Village is prohibited (2/7/94) *except as provided for below in (c).*  
  
c. **BOW HUNTING.** From time to time and as the Village Board declares for any given year and for the time period specified by the Board, bow hunting of deer may be allowed for animal control purposes. Application must be made to the Village office, along with proof of permission from owner(s) of the property on which the hunting will take place. A doe must be taken before a permit for a buck will be issued; DNR permit and hunting regulations as stipulated by the DNR must be obtained and followed in addition to Village regulations for bow hunting.
- 2. BURNING.**
  - a. No person shall kindle or cause to be kindled any fire in or upon the right of way of any street, alley or public way or on any public ground.

b. Burning of trash on private property shall be done only in an incinerator constructed of metal or masonry, properly screened to prevent the escape of burning materials, with suitable provision for the removal of ash and for the prevention of the dropping of hot ash on leaves or other readily combustible material.

c. No person shall burn grass or brush without a written permit from the Fire Chief.

d. **OPEN OR CLOSED OR OUTDOOR COOKING FIRES (BARBECUE GRILLS).**

(1) For all multi-family dwellings more than one story in height, the use and/or storage of any propane or charcoal portable cooking device or any portable fireplace device is strictly prohibited above the ground floor level.

(2) For all multi-family dwellings more than one story in height, the use of any open or closed outdoor cooking fire, any charcoal portable cooking device any portable fireplace device or any open flame device is prohibited within 10 feet of the structure at ground floor level and within 15' of any combustible material on the ground floor level.

(3) LP-gas containers that have water capacities greater than 2.5 pounds (nominal one-pound LP-gas capacity) shall not be located on balconies above the ground floor level when living units are located one above the other, except when such balconies are served by outside stairways and only those outside stairways are used to transport the container.

**3. CONDUCT ON THE SHORES OF ANY BODY OF WATER.** No person shall throw or deposit any metal cans, glass bottles or any other debris made in whole or in part of metal or glass in or on the shores of any body of water in the Village.

**4. CURFEW.**

a. No child under 18 years of age shall loiter, idle, remain or be, and no parent, guardian, keeper or operator of any place shall permit a child of such age to loiter, idle, remain or be in or upon any of the streets, alleys, public beaches or other public places in the Village between the hours of 11 p.m. and 6 a.m. of the next following day, unless such child is accompanied by a parent, responsible adult chaperone who is not less than 18 years of age or by some adult person having legal custody of such child. This subsection shall not be

construed to prohibit any such child from attending a school activity, properly chaperoned by school authorities acting in their official school capacity, which activity shall extend over a period of time later than that which pertains to the curfew hour provided by this subsection. Persons in official charge of such school activity which extends beyond the curfew hour provided by this subsection shall instruct those in attendance, who are subject to any of the provisions of this subsection, that they must return to their homes without loitering, remaining in any public place or unnecessarily taking an indirect route causing them to prolong the time required for them to reach their homes and thus become violators of this subsection. This subsection shall not be construed to prohibit any child under the age of 18 years from performing an urgent and necessary errand at the request of the parent or guardian who shall give to such child a written instruction stating the destination to which the child is directed, the time of leaving on the errand and bearing the date thereof and the signature of the parent or guardian.

- b. All of the provisions of par. (a) shall apply to any child under the age of 18 years, excepting only that the time during which the provisions of par. (a) shall be applicable to any child under the age of 18 years shall extend from 11 p.m. to 6 a.m. of the next following day instead of as provided in par. (a) hereof. It is further provided that any child 16 years of age or older shall not be in violation of this subsection if, while lawfully employed and either performing his duties of that employment or while returning to his home by a direct route in an expeditious and orderly manner, he shall necessarily be required to be upon any public street or place for a reasonable and necessary time beyond 11 p.m.
- c. Any person who violates pars. (a) or (b) of this subsection shall, if it be a first offense by such person who is under 18 years of age, be warned of the penalty provided in 9.10 of this chapter and the enforcement officer or peace officer shall detain the minor until given over to the parent, guardian or other person having legal custody of the minor offender. If there be a second offense by a person under 18 years of age in violation of pars. (a) or (b), the provisions of **Ch. 48, Wis. Stats.**, shall constitute the procedure and penalty for such second or subsequent offense.

## **9.02 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.**

### **1. DISORDERLY CONDUCT PROHIBITED.**

- a. No person shall in any public or private place engage in violent, abusive, boisterous or otherwise disorderly conduct that tends to cause or provoke a disturbance of public order or tends to disturb or annoy any other person.
- b. No person shall intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

2. **LOITERING PROHIBITED.**
  - a. **LOITERING OR PROWLING.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted in the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.
  - b. **OBSTRUCTION OF HIGHWAY BY LOITERING.** No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.
  - c. **OBSTRUCTION OF TRAFFIC BY LOITERING.** No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Village in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.
3. **NOISE.** No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another person in or about any public street, alley or park or any private residence. No person shall operate any motor vehicle in an unreasonably loud manner, either by speeding up the engine unnecessarily or by causing the tires to squeal.
  - a. **Compression Brakes Prohibited.** It shall be unlawful for any vehicle equipped with compression brakes to downshift and release the clutch to utilize the vehicle's engine to slow the vehicle in order to meet proper speed restrictions or to stop at stop signs within the Village, except in case of extreme emergency. *Passed 6/9/08*
4. **SLEEPING ON BEACHES.** No person shall spend the night or sleep on any public beach or beach area during the hours between sunset and sunrise.



**9.03 OFFENSES ENDANGERING PUBLIC PEACE & GOOD ORDER**

**9.04 OFFENSES ENDANGERING PUBLIC AND PRIVATE PROPERTY.**

1. **DESTRUCTION OF PROPERTY.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Village or its departments or to any private person without the consent of the owner or proper authority.
  
2. **LITTERING.** No person shall deposit or throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks, beaches or other property of the Village; upon any private property not owned by him; or upon the surface of any body of water within the Village.
  
3. **BEACH AREAS.** No person shall operate or park any motor vehicle on any beach area or in the water immediately adjacent to any beach area. This subsection is also applicable to private beach areas when such activities are carried on without the consent of the owners or occupants of such private beach areas.

**9.10 PENALTIES.** Except as otherwise provided, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in **25.04 of this Code of Ordinances**. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs. Such violator shall also be held responsible for the cost of damage to property or injury to person.

## **CHAPTER 10**

### **PUBLIC NUISANCES**

- 10.01 PUBLIC NUISANCE DEFINED**
- 10.02 PUBLIC NUISANCE PROHIBITED**
- 10.03 ABATEMENT OF PUBLIC NUISANCES**
- 10.04 COST OF ABATEMENT**
- 10.10 VIOLATIONS AND PENALTIES**

**10.01 PUBLIC NUISANCE DEFINED.** (1) A public nuisance is a thing, condition, practice or act, whether by intent or neglect, that may be the cause or source of filth, harm, sickness, injury, annoyance, offense to or the invasion or disturbance of the rights of other persons or a community.

- (2) The following things, acts, conditions and practices are hereby specifically declared to be public nuisances in the Village, but such enumeration shall not be construed to exclude other public nuisances coming within the definition of sub. (1)
  - (a) Carcasses of animals, birds or fish not intended for human consumption which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
  - (b) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which insects, rats or other vermin may breed.
  - (c) Exposed garbage and garbage cans which are not fly-tight.
  - (d) The escape of smoke, soot, cinders, fly ash, fumes, noxious acids, vapors, dust or other atmospheric pollutants within one mile therefrom in such quantities as to annoy or endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.
  - (e) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewerage or other dangerous or obnoxious substances.
  - (f) Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench 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.
  - (g) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, surface waters, wells or public place within the Village.
  - (h) 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 intercourse or gambling.
  - (i) All gambling devices and slot machines.

- (j) 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.
- (k) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State or ordinances of the Village.
- (l) All signs and billboards, lighting, 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.
- (m) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway which purport to be or may be mistaken for an official traffic control device or which because of color, location, brilliance or manner of operation interfere with the effectiveness of any such device, sign or signal.
- (n) All trees, hedges, signs 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.
- (o) All limbs of trees which project over and less than 14' above the surface of a public sidewalk or street or less than 10' above any other public place.
- (p) All use or display of fireworks, except as provided by the laws of the State and ordinances of the Village.
- (q) All buildings or structures so old dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (r) All wires over streets, alleys or public grounds which are strung less than 15' above the surface thereof.
- (s) All loud, discordant and unnecessary noises or vibrations of any kind, particularly at night (After 8 pm).
- (t) 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 or 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.

- (u) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (v) All abandoned refrigerators or ice boxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (w) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets and sidewalks.
- (x) All snow and ice not removed from walks or not sprinkled with ashes, sawdust or sand.
- (y) Any dog which by frequent and habitual howling, yelping or barking shall cause serious annoyance or disturbance to any person or persons or to the neighborhood.
- (z) Any dog, licensed or unlicensed, found running at large off the premises of its owner shall be considered a public nuisance and shall be impounded by any peace officer or other person designated for such duty by the Village Board. The repossession of any dog so impounded or seized may be obtained by paying the dog catcher forfeitures as set by the Village Board. After such dog has been so impounded for a period of 7 days, it shall be destroyed under the direction of the dogcatcher. Notice of the impounding shall be given by the person or officer in possession of the dog within 24 hours of impounding to the owner of the dog, if known.
- (aa) Any parking of detached trailers on Village streets or any vehicle parked for more than 48 hours on Village streets.

**10.02 PUBLIC NUISANCES PROHIBITED.** Any public nuisance identifiable under the definition in 10.01 (1), without limitation because of enumeration in 10.01 (2), is hereby prohibited and is subject to abatement.

**10.03 ABATEMENT OF PUBLIC NUISANCES. (1) INSPECTION OF PREMISES.** Whenever complaint is made to the Village Board that a public nuisance exists within the Village, the President shall promptly notify the County Health Officer, Planning Committee, Fire Chief or other appropriate officer who shall immediately inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Village Board. Whenever applicable, the inspecting officer shall cause photographs to be made of the premises and shall attach them to the report.

- (2) **SUMMARY ABATEMENT.** (a) **NOTICE TO OWNER.** If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, comfort, safety, peace, morals and decency, the Village President may direct the Sheriff to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of such notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours or as soon thereafter as the Village President may determine is reasonable and possible in view of the existing circumstances and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (b) **ABATEMENT BY VILLAGE.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the County Health Officer, in case of health nuisances, or the Sheriff in other cases, shall cause the abatement or removal of such public nuisance.
- (c) **ABATEMENT BY COURT ACTION.** If the person causing, permitting or maintaining the nuisance refuses to comply with the order issued under this subsection or contends that the condition in question does not constitute a public nuisance, the Village President shall cause an action to abate such nuisance to be commenced in the Door County Court.
- (d) **OTHER METHODS NOT EXCLUDED.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State.

**10.04 COST OF ABATEMENT.** In addition to any other penalty imposed by this chapter 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.

#### **10.10 VIOLATIONS AND PENALTIES.**

Except as otherwise provided, any person who violates any provision of this chapter or any order, rule or regulation promulgated hereunder shall be subject to a penalty as provided in 25.04 of this Code of Ordinances. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or after the date set for the completion of the abatement in accordance with 10.03. Such violator shall also be held responsible for the cost of damage to property or injury to person.

**SECTION II: CHAPTER 9** of the Ephraim Code of Ordinance is hereby amended  
by adding the following:

**Chapter 9**

**FINAL DRAFT**

## **Peace, Order and Nuisances**

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**9.0 DECLARATION OF PURPOSE:** With full recognition of the principles of individual freedom of thought and action, it is universally recognized that the protection of the safety, comfort, security, rights and privileges of all members of a community and the protection of their property requires the adoption of and compliance with certain regulations of personal conduct.

**9.01 General provisions and enforcement:** All applicable Wisconsin State statutes and Chapter 31, sections 31.01 through 31.43 of the Door County Code are hereby incorporated in this chapter by reference.

**9.02 Public Nuisances Prohibited:** No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village.

**9.03 Public Nuisances Defined**

**A.** Generally, A public nuisance means a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

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

**B.** Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of subsection (a) of this section.

- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (2) Carcasses of animals, birds 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.
- (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin breed.



- (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (5) Garbage cans, which are not fly tight.
- (6) All noxious weeds and other rank growth of vegetation.
- (7) All domestic animals running at large.
- (8) 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.
- (9) Any use of property, substances or things within the Village 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 or persons within the Village.
- (10) All abandoned wells not securely covered or secured from public use.
- (11) Any use of property, which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

**C. Public Nuisances Offending Morals and Decency.** The following acts, omissions, places, conditions, and things are hereby 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 of subsection (A) of this section:

- (1) 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 intercourse or gambling.
- (2) 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 ordinance.
- (3) Any place or premises within the Village where ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

- (4) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of law or ordinance.

**D. Public Nuisances Affecting Peace and Safety.** The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (A) of this section:

- (1) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger public safety.
- (2) All unauthorized signs, signals, markings, or devices placed or maintained upon or in view of any public highway which purport to be or may be mistaken as an official traffic control device or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
- (3) 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.
- (4) All limbs of trees, which project over and are less than 14' feet above any public sidewalk, street or other public place.
- (5) All trees which are a menace to public safety or are the cause of substantial annoyance to the general public
- (6) All use or display of fireworks except as provided by law.
- (7) All buildings or structures so old dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human occupancy.
- (8) All wires over streets, alleys or public grounds, which are, strung less than 15 feet above the surface thereof.
- (9) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (10) All obstructions of streets, alleys sidewalks or crosswalks and all excavations in or under the streets, alleys, sidewalks or crosswalks, except as permitted by ordinances **or** public works project or which, although made in accordance with ordinances, are kept or

maintained for unreasonable or illegal length of time after the purpose thereof has been accomplished or do not conform to the permit.

- (11) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alleys or sidewalk.
- (12) All abandoned refrigerators or ice- boxes.
- (13) Any unauthorized or unlawful use 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.
- (14) Repeated or continuous violations of ordinance or law relating to the storage of flammable liquids.
- (15) All snow and ice on the sidewalk not removed or sprinkled with a material, which accelerates melting or prevents slipping with the exception of those public sidewalks that may be closed seasonally by the public works department and deemed unsafe for travel.
- (16) All property use that involves the out-side storage, dismantling, sorting or baling of junk within the Village.
- (17) Any motor vehicle not in working order or that lacks current legal registration which is stored outside.

#### **9.04 Graffiti Vandalism Prohibited/Abatement:**

- A. Purpose and Intent. The purpose and intent of this section is to prohibit graffiti vandalism, and to provide a procedure requiring the removal of graffiti from property within the Village. Graffiti contributes to blight and deterioration of surrounding properties, reduces the physical attractiveness to the neighborhoods, and is detrimental to the Village. Graffiti constitutes a public nuisance and must be abated promptly in order to alleviate the detrimental impact it has on the neighborhoods, businesses, surrounding properties, and citizens and the Village in general.
- B. Graffiti Vandalism Defined.
  - (1) "Graffiti" means any inscription, word, figure or design, marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, dye, markers or other similar substances, on buildings, fences, structures, signs and other similar places.

C. Graffiti Vandalism Prohibited. No person may in any way alter the visual or physical appearance of any building structure or any other physical real or virtual property except as explicitly designated by the village or other legal owner of that property. This shall not be construed to prohibit the placement of temporary and easily removable chalk or other water soluble markings on public or private streets, sidewalks or other paved surfaces incident to youth activities such as hopscotch and various types of ball games or any lawful business activity.

D. Penalty.

(1) Any person who violates subsection 9.04 (C) shall be subject to a forfeiture of not less than \$500 per violation, in addition to any applicable fees, assessments and costs of prosecution. In addition, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property.

E. Parental Liability. Pursuant to Section SS 895.035 Wisconsin Statutes, the parent(s) of an un-emancipated minor may be liable for the damage of property caused by the willful, malicious or wanton act of such child; the liability shall not exceed the amount specified in SS. 799.01(1) (d).

F. Graffiti Abatement.

(1) Graffiti Prohibited. No private person or public entity, agency, firm or corporation who is the owner of any real or personal property where graffiti exists as defined in 9.04(B) of this chapter, may maintain or allow any graffiti to remain upon the property for a period of more than ten (10) days. With the exception of the siding on the warehouse building on Anderson dock which is noted as an historical location for such graffiti.

(2) Abatement Notification. Upon notification, the Zoning Administrator shall, within five (5) days of receiving said notification, serve any property owner whose property has been affected by the application of graffiti, a written Notice to abate requiring the property owner to remove, restore, clean up or repair the property within ten (10) days of the date of notice.

(3) Content of Notice to Abate. The notice shall identify the property affected, shall generally describe the location of the graffiti and direct that the graffiti be removed within ten (10) days of receipt of the Notice to Abate. The Notice shall also include that if the owner fails to remove graffiti within the time specified in the Notice, the owner may be subject to a forfeiture as provided in subsection (G).

(a) The Notice may be served personally by the Zoning Administrator his/her authorized representative, or by registered, certified or regular mail, and service upon any one of joint or in-common owners shall constitute valid service upon all property owners. G. Penalty.

- (1) Any person, entity, agency, firm or corporation who violates this subsection shall be subject to a forfeiture of not less than \$100, nor more than \$500, together with the cost of prosecution.
- (2) A violation of this section exists on the date that the citation is issued and continues to exist until remedied. Each day in which a violation continues shall be determined a separate and distinct offense.
- (3) Payment of a monetary forfeiture does not relieve the owner or operator of the property of the duty to abate the graffiti nuisance. If, after thirty (30) days upon receipt on Notice to Abate, the property owner or operator fails to comply with the terms of the Notice, in addition to the penalties set forth under this subsection, the Village may cause the removal, restoration, clean up or repair of such property affected by the graffiti. Pursuant to Wisconsin Statutes Section 66.60(16), the Village may impose a special charge for services reflecting the actual costs of graffiti removal against the property.

#### **9.05 Air Pollution**

No person shall cause, permit, or allow the escape from any smokestack, chimney or open fire within the Village or within one mile there from into the open air of such quantities of smoke, ash, dust, soot, cinders, acid or other fumes, dirt or other material or noxious gases in such place or manner as to cause injury, detriment or nuisance to any person or to the public, or to endanger the health or safety of any such person or the public, or in such manner as to cause injury or damage to business or property, and such is declared to be a public nuisance and prohibited. An exception may be made in the case of permitted functions such as fish boils and firework displays.

#### **9.06 Loud Noises Prohibited**

1. It shall be unlawful for any person in the Village to engage in unreasonable loud and raucous noise between the hours of 10:00 p.m. and 7:00 a.m. A noise shall be presumed to be unreasonably loud and raucous if:
  - (a) It is plainly audible within a single family or two-family residence, which is not the building, structure or property from which the sound originates, or from a distance of fifty (50) feet in the case of noise originating on public property or a public right of way, or from a

distance of 50 feet in the case of noise originating inside multifamily residential buildings of three (3) units or more.

2. It shall be unlawful for any person to make any of the below-listed noises that are unreasonably loud and raucous:
  - (a) The sounding of any horn or noise emitting device on any automobile, motorcycle, bus or other vehicle for more than fifteen (15) seconds or at continuous and frequent intervals.
  - (b) The playing of any loud amplified music or other sound, radio, stereo, musical instrument or other device used for producing or reproducing sound with such volume as to be unreasonable between the hours of 10:00 p.m. and 7:00 a.m.
  - (c) Allowing any animal, bird or fowl to bark, howl or make other noises for more than thirty (30) seconds or at continuous and frequent intervals.
  - (d) The use of an automobile, motorcycle or other vehicle, machinery or equipment so out of repair, or in such manner as to create loud, grating, grinding, rattling or other noises, including unreasonable acceleration, deceleration or racing of motors whether in motion or at rest.
  - (e) The discharge in the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, motorboat engine or other power device in constant operation, except through a muffler or other device, which will effectively prevent loud or explosive noises.
  - (f) The creation of any unreasonably loud and raucous noise on any street adjacent to any school, retirement facility or church while it is in session, which unreasonably interferes with the workings or sessions.
  - (g) The creation of unreasonably loud and raucous noise in connection with the loading of garbage or trash on a compactor truck or with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or other containers between the hours of 8:00 p.m. and 6:00 a.m.
  - (h) The operation on private property or on a public way in any residential or business district of any power equipment generating unreasonable noise that is used for home or building repair or grounds maintenance, between the hours of 10:00 p.m. and 7:00 a.m. Such power equipment shall include, but not be limited to, lawn mowers, garden tools, electric or chain saws or any power tools or other equipment used for home or building repair or grounds maintenance.

- (i) It shall be unlawful for any person to make any of the below-listed noises that are unreasonably loud and raucous:
1. The Construction, demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m., during weekdays and Saturdays, and 9:00 a.m. and 7:00 p.m. on Sundays and national holidays.
  2. Grading, excavation, blasting, demolition, roadway construction or underground utility construction other than between the hours of 8:00 a.m. and 8:00 p.m., during weekdays and Saturdays except in cases of urgent necessity in the interest of public health and safety. If the village Administrator determines that, the public health and safety will not be impaired by these activities he/she may grant permission for such work to be done during other hours on application being made at the time the permit for the work is awarded or during the progress of the work or during public works response to emergency situations, when the Village Administrator shall be notified however no application will be necessary.

3. Exemptions

The following activities shall be exempt from the terms of this section:

- (a) Any ambulance, any officer of the law while engaged in necessary public business or any vehicle in the Village while engaged in necessary public business.
- (b) Excavations or repairs on streets, highways, waterlines or sewer lines by or on behalf of the Village, the County or the State, during the nighttime when the public welfare and convenience renders it impracticable to perform such work during the day.
- (c) The reasonable use of amplifiers in the course of public address which are noncommercial in nature and when such use is outside the downtown business district of the Village.
- (d) Any use of noise-emitting devices or the creation of any noise where permit has been obtained from the Village Administrator, but only to the extent as provided in the permit.
- (e) Any organized sporting events or fairs, carnivals or like activities.

4. Penalties. Penalties for violations of this section shall be as follows:

- (A) This Section shall be subject to the enforcement provisions of Section 9.06(4) Violations of this Section shall be subject to forfeiture as provided in the County Code 31.39 (6)(a) for each day that a violation exists.

(B) In any proceedings for the violation of this Section, the tenants, owners and/or occupants, after proper notice of the violations, shall be considered equally responsible for committing or allowing to commit a violation from the location or occupancy under their control.

**9.07 Compression Brakes Prohibited.** No person shall operate motor vehicle brakes within the Village limits of the Village of Ephraim to cause unreasonable and excessive noise levels or that are in any way activated or operated by the compression of the engine of any such motor vehicle or any unit or part thereof, except under emergency conditions.

**SECTION III:** If any section, subsection, paragraph or sentence of this ordinance is for any reason deemed unconstitutional or otherwise unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance.

**SECTION IV:** This ordinance shall take effect upon its passage and publication according to law.

Passed and approved by the Village Board of Trustees at its regular meeting on the \_\_\_\_\_ of August  
February, 2018

VILLAGE OF EPHRAIM

By: \_\_\_\_\_ Mike McCutcheon, President

Attest: \_\_\_\_\_ Andrea Collak, Clerk

Published this \_\_\_\_\_ day of \_\_\_\_\_ 2018.