

VILLAGE OF MAZOMANIE

ORDINANCE 2024-2

**AMENDING CHAPTER 290 OF THE CODE OF ORDINANCES PERTAINING TO
CHRONIC NUISANCE PROPERTY**

WHEREAS, Village Staff recommends amending Chapter 290 of the Code of Ordinances to regulate chronic nuisance properties; and

WHEREAS, the Village Board finds the recommended amendments to be in the public interest.

NOW THEREFORE, the Village Board of the Village of Mazomanie, Dane County, Wisconsin, do ordain as follows:

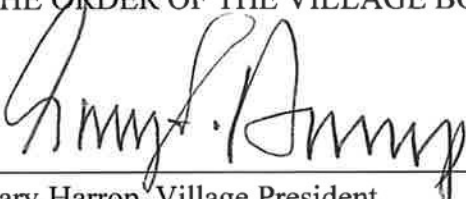
SECTION 1. Chapter 290 of the Code of Ordinances pertaining to chronic nuisance property is hereby created as set forth in Exhibit A attached hereto.

SECTION 2. All other provisions of the Code of Ordinances not specifically amended herein shall remain unmodified and in full force and effect.

SECTION 3. This ordinance shall take effect upon passage and publication as provided by law.

The above foregoing ordinance was duly adopted at a meeting of the Village Board on the 27th day of February, 2024.

BY THE ORDER OF THE VILLAGE BOARD

By: 
Gary Harrop, Village President

2/27/2024
Date

Attest: 
Angie Volkman, Village Clerk/Treasurer

3/6/2024
Date

Incorporated by Reference:

Exhibit A: Chapter 290

EXHIBIT A

CHAPTER 290. Nuisances

SEC. 290-1 Authority of Board of Health.

The Board of Health may make reasonable and general rules for the enforcement of the provisions of this chapter and for the prevention of the creation of health nuisances and the protection of the public health and welfare and may, where appropriate, require the issuance of licenses and permits. All such regulations shall have the same effect as ordinances, and any person violating any of such regulations and any lawful order of the Board shall be subject to the general penalty provided for in Chapter 1, § 1-3 of this Code.

SEC. 290-2 Deposit of deleterious substances.

No person shall deposit or cause to be deposited in any public street or on any public ground or on any private property not his own any refuse, garbage, litter, waste material or liquid or any other objectionable material or liquid. When any such material is placed on the person's own private property, it shall be properly enclosed and covered so as to prevent the same from becoming a public nuisance.

SEC. 290-3 Public nuisances prohibited.

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

SEC. 290-4 Public nuisance defined.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue 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 or other public way or the use of public property.

SEC. 290-5 Chronic nuisance property.

- A. Findings. The Village Board finds that certain property within the Village receives and requires more than the general, acceptable level of services from law enforcement, the Building Inspector and the Village Administrator, places an undue and inappropriate burden on Village taxpayers, and constitutes a public nuisance. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. This section is enacted to encourage property

owners and persons in charge, as defined below, to recognize their responsibility to ensure that activities occurring on their properties conform to the law and do not unduly burden the Village's law enforcement, building inspection and administration resources, and to provide a mechanism for the Village to take action against property owners and/or persons in charge who fail to ensure properties they own or control do not require a disproportionate level of Village resources to be devoted to such property. This section provides a method for law enforcement to use in a progressive manner when working with property owners and persons in charge to abate nuisance activities occurring on their properties. Therefore, the Village Board determines that the Village will charge the owners of such properties and/or persons in charge with the costs associated with abating nuisance activity at properties where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of law enforcement services from requesting them. This section does not affect a property owner's duty to comply with Chapter 221, Fair Housing, of this Code, nor does it affect a property owner's duty to comply with all other laws governing residential tenancies which are contained in the Wisconsin Statutes and the Wisconsin Administrative Code.

- B. Definitions.** Within this chapter, the following terms, phrases and words and their derivations have the meaning given herein:

CHIEF OF POLICE

The Village of Mazomanie Chief of Police as defined in Chapter 94 of this Code or designee.

CHRONIC NUISANCE PROPERTY

A property that meets any of the following criteria:

- (1) Property has generated three or more calls for law enforcement services that have resulted in enforcement action for nuisance activities on three separate days within a 90-day period and/or has generated five or more cases for building inspection from at least five building inspections occurring within a one-year period, with such cases resulting in enforcement action. Three or more calls for law enforcement services resulting in enforcement action for nuisance activities includes enforcement action taken against any person associated with the property while at or within 200 feet of the property for a nuisance activity; or
- (2) Is a property for which a Dane County court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the property within 30 days prior to the date of the search warrant application; or

- (3) Is a property which has had one enforcement action associated with the property resulting from the manufacture, delivery or distribution of a controlled substance(s), as defined in Chapter 961, Wis. Stats.

DIRECTOR OF BUILDING INSPECTION

The Village of Mazomanie Building Inspector as defined in Chapter 94 of this Code.

ENFORCEMENT ACTION

Any of the following: The physical arrest of an individual(s), the issuance of a citation for a law violation and/or referral of charges by law enforcement or the Building Inspection Department to the Village Attorney or District Attorney for prosecution.

NUISANCE ACTIVITIES

Any of the following activities, behaviors or conduct:

- (1) An act of harassment as defined in § 947.013, Wis. Stats.
- (2) Disorderly conduct as defined in § 306-11 of this Code or § 947.01, Wis. Stats.
- (3) Crimes of violence as defined in Chapter 940, Wis. Stats.
- (4) Resisting or obstructing an officer as prohibited by § 946.41, Wis. Stats.
- (5) Indecent exposure as prohibited by § 944.20(1)(b), Wis. Stats.
- (6) Damage to property as prohibited by §§ 306-16 and 306-17 of this Code or § 943.01, Wis. Stats.
- (7) The production or creation of loud and unnecessary noise as prohibited by § 306-10 of this Code.
- (8) Discharge of a firearm as prohibited by § 306-2 of this Code.
- (9) Crimes involving illegal possession of firearms as defined in §§ 941.23, 941.26, 941.28, 941.29 and 948.60, Wis. Stats.
- (10) Trespass to land as defined in § 943.13, Wis. Stats., or trespass to dwellings as defined in § 943.14, Wis. Stats.
- (11) Obstructing a street or sidewalk, as prohibited by § 306-8 of this Code.
- (12) Theft as defined in § 943.20, Wis. Stats.

- (13)** Arson as defined in § 943.02, Wis. Stats.
- (14)** Depositing rubbish as prohibited by § 290-5 C of this Code.
- (15)** Keeping a place of prostitution as defined in or § 944.34, Wis. Stats.
- (16)** Prostitution as prohibited by § 944.30, Wis. Stats.
- (17)** Soliciting prostitutes as prohibited by § 944.32, Wis. Stats.
- (18)** Keeping, or aiding or assisting in keeping, or being an inmate of any disorderly house, as prohibited in § 290-6 A of this Code.
- (19)** Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street as prohibited by § 254-21 of this Code.
- (20)** Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in § 290-6 C of this Code or § 125.04(1), Wis. Stats.
- (21)** Possession, manufacture, distribution or delivery of a controlled substance or related offenses as defined in Chapter 961, Wis. Stats.
- (22)** Maintaining a drug dwelling as defined in § 961.42, Wis. Stats.
- (23)** Illegal gambling as defined in § 945.02, Wis. Stats.
- (24)** Owning, keeping or harboring a dangerous animal, as prohibited in § 158-6 of this Code.
- (25)** Violations of the Minimum Housing Code.

PERSON

Any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the Village of Mazomanie.

PERSON ASSOCIATED WITH

Any person who, whenever engaged in a nuisance activity, has entered, patronized, visited or attempted to enter, patronize or visit, or waited to enter, patronize or visit, a property or person present on a property, including without limitation any officer, director, customer, agent, employee or any independent contractor of a property, person in charge, or owner of a property.

PERSON IN CHARGE

Any person, in actual or constructive possession of a property, including but not limited to an owner, lessee or occupant of property under his or her ownership or control.

PROPERTY

A place of a commercial building, an abode, a residence, a house or multiple-dwelling unit for one or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple-dwelling units, "property," as used in this section, may consist of any single unit providing complete, independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

C. Procedure.

- (1)** Upon finding that a property meets the definition of a chronic nuisance property, the Chief of Police, Director of Building Inspection or Village Administrator may declare the property a chronic nuisance property. The Chief of Police, Director of Building Inspection or Village Administrator shall provide written notice of his or her determination to the property owner identified by the Village Assessor's records for that property and/or persons in charge. The notice shall be deemed delivered if sent either by first class mail to the property owner's or person in charge's last known address or delivered in person to him or her. If he or she cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the property owner's or person in charge's place of business with the person who is apparently in charge of the office, if the property owner is a corporate entity; or if the property owner is a natural person, at his or her 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 or to the person in charge at the last known address on file with the Village. The notice shall contain the following information:

- (a) Street address, parcel number or a legal description sufficient to identify the property.
 - (b) A concise statement, including a description of the relevant activities supporting the determination that the property is a chronic nuisance property.
 - (c) A statement that the owner or person in charge shall immediately notify the Chief of Police, Director of Building Inspection or Village Administrator of any change in address to ensure receipt of future notices.
 - (d) A statement that the cost of future enforcement may be assessed as a special charge against the property and/or charged to the person in charge.
 - (e) A statement that the owner and/or person in charge shall, within 10 days of receipt of the notice, respond to the Chief of Police, Director of Building Inspection or Village Administrator either with an appeal or to propose a written course of action to abate the nuisance activities. If the owner and/or person in charge responds to the notice in Subsection C(1) with a nuisance abatement proposal, the Chief of Police, Director of Building Inspection or Village Administrator may accept, reject or work with the owner to modify the proposal at his or her discretion. The plan is acceptable if it can reasonably be expected to result in abatement of the nuisance activities described in the notice within 60 days.
- (2) Whenever the Chief of Police, Director of Building Inspection or Village Administrator determines that any of the following have occurred: a) a property owner and/or person in charge has failed to respond to the notice in Subsection C(1); or b) enforcement action for an additional nuisance activity has occurred at a property for which notice has been issued pursuant to Subsection C(1), and this enforcement action has occurred not less than 15 days after the notice has been issued; or c) a course of action submitted pursuant to Subsection C(1)(e) has not been completed, then the Chief of Police, Director of Building Inspection and/or Village Administrator may calculate the cost of enforcement to abate this and any subsequent nuisance activities and may refer such cost to the Village Clerk-Treasurer so that the cost may be billed to the property owner and/or person in charge. The Chief of Police, Director of Building Inspection and/or Village Administrator shall notify the property owner and/or person in charge of the decision to refer the cost of enforcement. Delivery of this notice, along with a copy of the referral letter to the Village Clerk-Treasurer, shall be made as set forth in Subsection C(1). The notice shall contain:
- (a) The street address or legal description sufficient for identification of the property.

(b) A statement that the Chief of Police, Director of Building Inspection or Village Administrator has referred the cost of enforcement to the Village Clerk-Treasurer with a concise description of the nuisance activities and the relevant sections of the ordinances.

(c) Notice of the property owner's and/or person in charge's right to appeal pursuant to Subsection E.

D. Penalties and remedies.

(1) Cost recovery. The Chief of Police, Director of Building Inspection and Village Administrator shall keep an accurate account of the cost of enforcement and shall report it to the Village Clerk-Treasurer. The Village Clerk-Treasurer shall annually prepare a statement of enforcement expenses for each property reported by the Chief of Police, Director of Building Inspection or Village Administrator. The Village Clerk-Treasurer shall enter the amount in the tax roll as a special charge against the lot or parcel of land occupied by the property, and the charge shall be collected in all respects like other taxes upon real estate. An administrative fee as set forth in the Village's Fee, Forfeiture and Deposit Schedule shall be added to the special charge against the benefited property. Alternatively, the cost may be charged to the person in charge if he or she is determined to be responsible for the nuisance activities pursuant to Subsection D(3) below.

(2) Forfeiture. Any person who maintains a chronic nuisance property in violation of this section after receipt of the notice provided in Subsection C(1) may be subject to a forfeiture of not less than \$100 nor more than \$1,000 for each enforcement action.

(3) No person or property shall be subject to the cost-recovery and forfeiture provisions of Subsection D(1) or (2), unless the Chief of Police, Director of Building Inspection or Village Administrator determines the nuisance activities which cause the property to constitute a chronic nuisance property were due, in whole or in part, to an act or omission of said person or a person in charge of the property.

E. Appeal. Appeal of the determination of the Chief of Police, Director of Building Inspection or Village Administrator pursuant to either Subsection C(1), or the action of the Village Clerk-Treasurer imposing special charges pursuant to Subsection D(1) against the property or person in charge may be submitted in accordance with § 4-8 of this Code.

F. Summary abatement. The Director of Building Inspection is authorized to cause the abatement, including summary abatement, of any nuisance found on any property, according to the procedure prescribed in § 290-8 of this Code.

G. Injunction. This section may be enforced by injunction.

- H. Abatement in accordance with state law. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the state or other provisions of this Code.
- I. When nuisance is deemed abated. The public nuisance created by a chronic nuisance property shall be deemed abated when no enforcement action to address nuisance activities occurs for a period of six consecutive months from the date stated on the notice declaring the premise a chronic nuisance premises and/or there are no building inspection cases generated for a period of six consecutive months from the date stated on the notice declaring the premises a chronic nuisance premises.

SEC. 290-6 Public nuisances affecting health.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of § 290-4:

- A. Adulterated food. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Unburied carcasses. 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.
- C. Breeding places for vermin, etc. 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 may breed.
- D. Stagnant water. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Garbage cans. Garbage cans which are not flytight.
- F. Noxious weeds. All noxious weeds and other rank growth of vegetation.
- G. 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.
- H. Noxious odors, etc. Any use of property, substances or things within the Village or within four miles thereof 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.

- I. Street pollution. 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.
- J. Animals at large. All animals running at large.
- K. Accumulations of refuse. Accumulations of old cans, lumber, elm firewood and other refuse in violation of provisions of this Code.
- L. Air pollution. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

SEC. 290-7 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 § 290-4:

- 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 intercourse or gambling.
- B. Unlicensed gambling devices. All unlicensed 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 the laws of the State of Wisconsin or ordinances of the Village.

SEC. 290-8 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 definition of § 290-4:

- A.** Signs, billboards, etc. 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 the public safety.
- B.** Illegal buildings. All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Village 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.** Tree limbs. All limbs of trees which project over a public sidewalk less than 10 feet above the surface thereof and all limbs which project over a public street less than 14 feet above the surface thereof.
- 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 the laws of the State of Wisconsin and ordinances of the Village.
- 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.
- I.** Wires over streets. All wires 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 shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- K.** Obstructions of streets; excavations. 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 or do not conform to the permit.

- L.** Open excavations. All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- M.** Abandoned refrigerators. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- N.** Flammable liquids. Repeated or continuous violations of the ordinances of the Village or laws of the state relating to the storage of flammable liquids.
- O.** Unremoved snow. All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

SEC. 290-9 Abatement of public nuisances.

- A.** Enforcement. The Chief of Police, the Chief of the Fire Department, the Director of Public Works and the Building Inspector 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 shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
- B.** Summary abatement. 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, safety, peace, morals or decency, the Village President, upon the recommendation of the appropriate department head, 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.
 - (1) If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within 10 days. If such nuisance is not removed within such 10 days, the proper officer shall cause the nuisance to be removed as provided in Subsection B.
 - (2) If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a

written report of his findings with the Village President who shall cause an action to abate such nuisance to be commenced in the name of the Village in Circuit Court in accordance with the provisions of Ch. 823, Wis. Stats.

- 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 of Wisconsin.

SEC. 290-10 Recovery of costs.

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.