

VILLAGE OF TOLONO, ILLINOIS  
ORDINANCE NO. 84-~~5~~ 1

The following language is hereby added to the Municipal Code of the Village of Tolono:

Title 8 of Municipal Code

Chapter 8.24 - Public Nuisances<sup>1</sup>

Division 1. General Provisions.

Sec. 8.24.010. Definitions.

(a) As used in this Article, a public nuisance shall mean any act, thing, 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 or other public way.

(b) Public nuisances shall include but not be limited to the following acts, conduct, omissions, conditions or things:

(1) all decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

(2) carcasses of household pets or other animals 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 materials, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed or may reasonably be expected to breed;

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<sup>1</sup>State law reference: As to power of the Municipality to define, prevent and abate nuisances, see S.H.A. ch. 24, Section 11-60-2. As to nuisances generally, see S.H.A. ch. 100 $\frac{1}{2}$ .

(4) all stagnant water in which mosquitoes, flies or other insects can multiply;

(5) privy vaults and garbage and refuse containers which are not fully covered;

(6) all noxious weeds and other rank growth of grass or other vegetation in excess of six inches in height;

(7) the escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village 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;

(8) the pollution of any public well or cistern, stream or body of water by sewage, creamery or industrial wastes or other substances;

(9) any use of property, substances or things within the Village or within one mile thereof, emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, 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.

(10) any use of property, substance or things within the Village emitting or causing distinctly loud and audible noises which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village, or which unreasonably interfere with the use and enjoyment of the property of an appreciable number of Village residents;

(11) any building or structure which is uncompleted and abandoned, deteriorated, dilapidated, or extremely unsound, and endangers the health and safety of the public;

(12) any inoperable or unlicensed motor vehicle, whether on public or private property, except a vehicle which is kept or stored within a garage or other building, or a vehicle which is in the process of reasonably expeditious repair, and includes a vehicle which exists for more than 4 days with one or more flat tires or remains stationed on a public street, alley or highway for more than 48 hours. A vehicle on the premises of a service station or other business which repairs vehicles shall be presumed to be in the process of reasonably expeditious repair;

(13) such other actions, conduct, omissions, conditions or things defined or specified in this Code as nuisances or as public nuisances;

(14) any violation of provisions of other ordinances as set forth in Title 8 of the Municipal Code, including:

- (a) Ordinance 74-2, 1974:
  - Section 8.04.010 - Garbage Accumulation
- (b) Ordinance dated June 7, 1937:
  - Section 8.08.010 - Garbage Discharge
  - Section 8.08.020 - Refuse Accumulation
- (c) Ordinance dated May 21, 1978:
  - Section 8.12.010 - Offensive Animal Keeping
  - Section 8.12.020 - Noxious Manure or Privy Contents
  - Section 8.12.030 - Offensive Cellars, Pools, Grounds, etc.
  - Section 8.12.040 - Nauseous Liquors and Substances
  - Section 8.12.050 - Deposits of Animal or Vegetable Matter
  - Section 8.12.060 - Removal of Nauseous Substances in an Offensive Manner
  - Section 8.12.080 - Deposit of Substances in Wells and Cisterns
  - Section 8.12.090 - Slaughtering and Rendering
  - Section 8.12.100 - Pasting of Handbills and Placards
  - Section 8.12.110 - Broken Sidewalks or Passages
  - Section 8.12.120 - Unsafe Scaffolding
  - Section 8.12.130 - Obstruction of Streets and Sidewalks
  - Section 8.12.140 - Unsafe Structures
- (d) Ordinance dated October 6, 1969:
  - Sections 8.16.010, 8.16.020 and 8.16.030 - Removal of Weeds

Sec. 8.24.020. Nuisances prohibited.

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

Division 2. Abatement.

Sec. 8.24.030. Filing complaints; inspections; notice to abate; failure to abate; abatement by Village.

(a) All complaints alleging the existence of a public nuisance shall be filed with the Building Inspector.

(b) The Building Inspector shall promptly inspect the premises or cause them to be inspected and shall make a written report of the findings of the inspection. Whenever practicable, photographs of the premises shall be attached to the written report. The Building Inspector shall keep all such written reports on file.

(c) Upon determining that a public nuisance exists on private property and that there is great immediate danger to the public health, safety, peace, morals or decency, the Building Inspector shall serve a notice of the public nuisance or cause such a notice to be served on the owner or occupant of the private property where the public nuisance exists or upon the person causing, permitting or maintaining such nuisance and post a copy of the notice on the premises where the public nuisance exists.

(d) Such notice shall specifically describe the public nuisance and shall direct the owner or the occupant of the private property where the public nuisance exists or the person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours of service or posting of the notice. In the event such owner, occupant or person cannot be located after reasonable inquiry, posting shall be sufficient notice. The notice shall state that unless such nuisance is so abated or removed the Village will cause it to be abated or removed, that the cost thereof will be charged to the owner, occupant or person causing, permitting or maintaining the nuisance and that such cost shall be a lien on the real property where the nuisance was abated or removed.

(e) Upon determining that a public nuisance exists and that there is no great and immediate danger to the public health, safety, peace, morals or decency, the Building Inspector shall mail or cause to be mailed to the owner or occupant of such premises or to the person or persons in whose name such real estate was last billed for property tax purposes a notice to demand the abatement or removal of the violation within 10 days. A copy of the notice shall be posted on the premises. The notice shall be substantially the same as that provided in subsection (d) above.

(f) In the event a nuisance is not abated or removed after notice pursuant to this Section and within the time specified in the notice, the Building Inspector may cause the abatement or removal of such public nuisance. The reasonable cost thereof shall be a lien on the real property where the nuisance was abated or removed.

(g) The Village may also institute injunctive court action in the event a nuisance is not abated or removed after notice pursuant to this Section and within the time specified in the notice, and the Building Inspector determines that abatement or removal of the nuisance by the Village is inappropriate.

Sec. 8.24.040. Cost of abatement as a lien.

(a) Whenever a bill for the reasonable costs of abatement or removal of a nuisance pursuant to this Article remains unpaid for 30 days after it has been sent, the Clerk shall file a notice of lien with the Champaign County Recorder. Any notice of lien pursuant to this Article shall be filed within 60 days after the cost and expense of abatement or removal of the nuisance has been incurred. The notice shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the municipality. However, the lien of such municipality shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the public nuisance and prior to the filing of such notice, and the lien of such municipality shall be subordinate to the lien of any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the municipality or person in whose name the lien has been filed and the release may be filed or recorded as in the case of filing notice of lien.

(b) Costs and expenses under this Article include, but are not limited to, the actual costs and expenses in time of Village Employees and in materials concerning the actual actions of abatement of the nuisance pursuant to this Article, transportation to and from the property, title searches or certifications, preparation of lien documents, foreclosure and other related reasonable attorney's expenses.

(c) A copy of the notice of lien shall be mailed by the Clerk to the owner of the property, or to the occupant, or to the person or persons in whose name such real estate was last billed for property tax purposes.

(d) The real estate subject to a lien for such an unpaid assessment of such costs and expenses may be sold for non-payment thereof, and the proceeds of the sale applied to pay the charges, after deducting costs.

(e) The Village Attorney may institute proceedings in the name of the Village in any court having jurisdiction over such matters against any property for which such costs and expenses have remained unpaid 30 days after a statement of such costs and expenses have been mailed to the property owner, to the occupant, or to the person or persons in whose name the property was last billed for property tax purposes.

(f) Upon payment of the costs and expenses, plus interest from the date 30 days after the bill was sent after notice of lien has been filed, the Clerk shall file with the Recorder a release of the lien.

ENACTING CLAUSE 8.24.050. This ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 24, Sections 1-24 of the Illinois Municipal Code.

Passed by the Board of Trustees of the Village of Tolono, Illinois, at a regular meeting held this 3rd day of APRIL, 1984.

Approved by the President of the Board of Trustees of the Village of Tolono, this 3RD day of APRIL, 1984.

ATTEST:

James R. Byers  
Village Clerk

Carl A. M. Carmel  
President