

**VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN
AN ORDINANCE REPEALING SECTION 50.104 OF THE CODE OF
ORDINANCES ENTITLED “CHRONIC NUISANCE PREMISES” AND
AMENDING, RENUMBERING AND RECREATING A NEW SECTION 50.104
OF THE CODE OF ORDINANCES NAMED “CHRONIC NUISANCE
PREMISES”**

The Village Board of the Village of Weston, Marathon County, Wisconsin, do ordain as follows:

Section I: Section 50.104 of the Municipal Code of the Village of Weston entitled “Chronic Nuisance Premises” is hereby repealed amended to provide as follows:

CHAPTER 50. NUISANCES

Sec. 50.104 Chronic Nuisance Premises

(a) *Declaration.* The Board of Trustees finds that from time to time certain premises in the Village of Weston require a disproportionate amount of Village resources (including public safety services provided by the Everest Metro Police Department) to be devoted to addressing various nuisances, criminal activities and other incidents that occur thereon. Often this disproportionate devotion of Village resources is due to property owner’s own actions or failure of the property owners to accept and exercise sufficient responsibility for and over the actions of occupants, guests, agents or employees that reside or frequent that premises. Such premises, as further described in subsection (b) below, are deemed chronic nuisance premises and are hereby recognized as a public nuisance due to the resource drain it causes the community as a whole. This section is enacted to encourage property owners and/or managers to engage in their responsibility to ensure that activities occurring on their property conform to the law and do not unduly burden the Village’s resources and to provide a mechanism for the city to take action against property owners who fail to ensure premises they own do not require a disproportionate devotion of resources to the premises. This section of the Municipal code is not intended to discourage crime victims or any person in legitimate need of police services from requesting them.

(b) *Determination of Chronic Nuisance Premises.*

- (1) Any single family residential, duplex, or four to twelve unit apartment premise to which a Village Department (including the Everest Metro Police Department) responds to complaints of any nuisance activity, that results in a municipal citation or Village enforcement action, three or more separate times within any thirty (30) day period is deemed to have received and required more than the general acceptable level of municipal services and places an undue burden upon the taxpayers of the Village. For the purposes of this subsection, a nuisance activity shall be any offense(s) under Chapters 10, 14, 38, 50, 54, 66, 82 and 94 of the Village of Weston Municipal Code, or their statutory counterparts, or any offense under state law for which a penalty under state law for which a penalty of forfeiture, fine or imprisonment is provided.

- (2) Any multi-unit apartment complex (sixteen units or more), mobile home park or privately-owned gated community to which a department responds to complaints of nuisance activity, that results in a municipal citation or Village enforcement action, fifteen (15) or more separate times within any thirty (30) day period is deemed to have received and required more than the general, acceptable level of municipal services and places an undue burden upon the taxpayers of the Village of Weston. For the purposes of this subsection, a nuisance activity is defined under Section (b) (1) of this ordinance.

Nuisances committed within the any multi-unit apartment complex, mobile home park or privately-owned gated community shall be considered to be the responsibility of the owner of the real property. For the purposes of this subsection, a determination of chronic nuisance premises of a mobile home park shall be a reviewable item in consideration of renewal of the mobile home park's annual operating license under Wis Stats. 66.058.

- (3) Any business or commercial venture to which a department responds to complaints of nuisance activity, that results in a municipal citation or Village enforcement action, five (5) or more separate times within any thirty (30) day period is deemed to have received and required more than the general, acceptable level of municipal services, and places an undue burden upon the taxpayers of the Village. For the purposes of this subsection, a nuisance activity is defined under Section (b) (1) of this ordinance. For the purposes of this subsection, a determination of a chronic nuisance premises that carries any class of Village liquor license, shall be a reviewable item in consideration of the revocation of the premise's liquor license per Wis Stats. 125.12 (2)
- (4) An offense shall not be considered a nuisance activity if it is committed by a person having no association with the premises by acquaintance with, relation to or expressed or implied invitation from the owner, occupant, operator, or agent of the premises.
- (5) Whenever any such premises exist, the appropriate Village department head or the Everest Metro Police Department Chief shall determine from the facts of each incident and considering the purpose of this subsection as set forth in Section (a) above, whether the premises is a chronic nuisance premises. A chronic nuisance premises shall be defined as a public nuisance.

(c) *Notice.* Whenever a Village department head or EMPD Chief finds a premise constitutes a chronic nuisance premises under section (a) (1), the department head or EMPD Chief shall provide written notice of his determination to the owner of the premises as identified by the records of the Village Assessor and Marathon County Land Records. Such notice shall be delivered by registered mail, return receipt requested or by personal service. If the owner cannot be located, the notice shall be published as a Class 2 notice under Wis. Chapter 985. The notice shall contain the following information:

- (1) The street address and number, if applicable, otherwise the parcel number of legal description sufficient to identify the premises.
- (2) A brief statement, including a description of the relevant activities, supporting the determination that the premise is a chronic nuisance premises.
- (3) A statement that the owner shall, within 10 (ten) days of receipt of the notice, or last day of publication if published, respond to the appropriate department head or EMPD Chief requesting a hearing before the Village Board of Trustees or proposing in writing a course of action that will be taken to abate the nuisance activities.
- (4) A statement that owner shall immediately notify the appropriate department head of any change in address to ensure receipt of future notices.

(d) *Owner Abatement.* If the owner responds to the notice in section (c) within 10 (ten) days of receipt of notice or the last day of publication if published with a nuisance abatement proposal, the department head or EMPD Chief may accept, reject, or work with the owner to modify the proposal in his or her discretion. If the department head or EMPD Chief rejects the abatement proposal, determines that an agreement on an appropriate abatement proposal cannot be reached or determines that owner abatement is for any reason unsuccessful, the matter shall be referred to the Village Board of Trustees for hearing.

(e) *Hearing.* If a hearing is requested by the owner or if the department head or EMPD Chief determines that a satisfactory abatement plan cannot be agreed upon or if the department head or EMPD Chief determines that abatement actions taken by the owner are unsuccessful, a hearing shall be held before the Village Board of Trustees. The owner shall receive ten (10) days written notice of the hearing sent by regular mail or, if the owner cannot be located, by publication of a Class 2 notice under Wis. Stats. Chap. 985. The Village Board shall hear any and all evidence it deems relevant and shall affirm or reverse the determination of the department head or EMPD Chief.

(f) *Penalties and Remedies.*

- (1) If the department head's or EMPD Chief's determination is affirmed, the Village Board of Trustees may order the owner to pay the actual cost of city services to respond to any nuisance activities occurring after the three (3) responses that led to the determination that the premises was a chronic nuisance premises. Such costs shall be presented to the Village Board of Trustees and may include costs incurred prior to the Village Board of Trustee's determination. The Village Board of Trustee's may order costs of all such calls to the chronic nuisance premises be paid until the public nuisance is abated under section (g). Such costs, plus a reasonable administrative charge, shall be billed to the owner by invoice sent by regular mail and if not paid within thirty (30) days of the date on the invoice shall be charged to the property as a special charge pursuant to Wis. Stats. 66.0627.

(2) The Village Board of Trustees may authorize any other penalty or remedy authorized by law.

(g) *When Nuisance is Deemed Abated.* The public nuisance created by a chronic nuisance premises shall be deemed abated when no Village resources have responded to the premises to address nuisance activities occurs for a period of six (6) consecutive months.

(h) *Abatement of Public Nuisances.*

(1) *Inspection of Premises.* Whenever a complaint is made to any Village official or employee that a public nuisance exists within the Village, said complaint shall be directed to the appropriate department head or EMPD Chief who shall in his or her reasonable discretion inspect or cause to be inspected the premises complained of and shall make a written report of his or her findings to the Village Administrator. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises.

(i) *Summary Abatement.*

(1) *Notice to Owner.* If the inspecting officer shall determine that a public nuisance exists within the Village, the department head or EMPD Chief may serve notice personally or by certified mail on the persons causing, permitting, or maintaining such nuisance and/or upon the owner or occupant of the premises where such nuisance is caused, permitted, or maintained and to post a copy of said 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 a specified, reasonable period of time after consideration of all relevant circumstances and shall state that unless the same is done will cause the nuisance 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 and that said costs may be collected as a special charge pursuant to Wis. Stats. §66.0627.

(2) *Abatement by the 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 department head or EMPD Chief shall cause the abatement or removal of such public nuisance. Wherever possible, costs of abatement shall be billed to the owner, occupant, or person causing the nuisance. If said costs are not paid within thirty (30) days of billing such costs, or if the owner, occupant or person causing the nuisance cannot be found, said costs may be collected pursuant to Wis. Stats. §66.0627.

(3) *Other Methods Not Excluded.* 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 of Wisconsin including, but not limited to an action under Wis. Stats. Chap. 823.

(j) *Cost of Abatement.* In addition to any other penalty imposed by this Chapter for the erection, contrivance, 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.

(k) *Penalty Provisions.*

(1) *General Penalty.* Whenever so provided in this Code, any person who shall violate any provision of this Code shall upon conviction of such violation, be subject to a penalty, which shall be as follows:

(2) *First Offense – Penalty.* Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not more than \$2,500 together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding ninety (90) days.

(3) Any person found guilty of violating any provision of this Code who shall previously have been convicted of a violation of the same provision shall upon conviction thereof, forfeit not less than \$50.00 nor more than \$2,500 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not to exceed six (6) months.

(4) *What Constitutes a Separate Offense.* Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision contained in this Code.

(l) *Execution Against Defendant's Property.* Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village the Court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.

Section II: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section III: This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

WESTON VILLAGE BOARD

By: _____
Fred Schuster, President

ATTEST:

Sherry Weinkauff, Clerk

ADOPTED: _____

NOTICE PUBLISHED: _____