

Chapter 208

NUISANCES

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[HISTORY: Derived from Title 5, Ch. 2, Art. 1, of the 1993 Code of the Village of Port Byron. Amendments noted where applicable.]

§ 208-1. Nuisances; general.

Within the territorial jurisdiction of the Village it is hereby declared a nuisance for any person to cause any of those acts or omissions that are declared to be nuisances by the laws of the State of Illinois, and such as are known as nuisances to the common law of the land not hereinafter specially enumerated.

§ 208-2. Filth in streets.

It shall be unlawful for any person to throw or deposit or cause to be thrown or deposited, any unclean water, manure, slop or other offensive matter, or ashes, or rubbish in any street, alley or public place in the Village.

§ 208-3. Dead animals.

It shall be unlawful for any person owning or in the possession of any dumb animals, which may die within the Village, to leave the same unburied therein for more than 12 hours after its death, unless sooner notified by the proper authorities to remove and bury the same, or for anyone to bring and leave the carcass of any such animals within the limits of the Village, provided this shall not apply to any such animals fit and intended to be used for food.

§ 208-4. Unhealthy premises.

It shall be unlawful for any person to keep, use or suffer any cellar, vault, private drain, pool, privy, sewer, grounds or any premises belonging to or occupied by any person, to become nauseous, foul, offensive, injurious or detrimental to the health of any individual.

§ 208-5. Obstructions in streets.

It shall be unlawful for any person to erect, construct or cause to be erected or constructed in any street or public alley in the Village, any step, cellar door or cellar way less than three feet from the side lot line of the street into the sidewalk or street, or less than three feet from the line of any alley, into the same; or to erect any porch, bulk, jut-window or other incumbrance,

or so place or cause to be placed any spout or gutter whereby the passage of any street or alley as aforesaid shall be obstructed.

§ 208-6. Obstructing streets.

It shall be unlawful for any person to place or erect, or cause to be placed or erected, in any street, road, sidewalk, alley or other place under control of the Village, any building or other obstruction or to fail to remove the same after notice from the Police Chief so to do.

§ 208-7. Nuisances on private property. [Amended 8-28-1978 by Ord. No. 78-8-28B]

A. Definition. For the purposes of this section, the term "nuisance" is defined to mean any condition or use or premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the deposition on, or the scattering over the premises of any of the following:

- (1) Lumber, junk, trash or debris;
- (2) Abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers.

B. Nuisance prohibited. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in value of the other property in the neighborhood in which such premises are located.

C. Nonoperating vehicles prohibited. No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating motor vehicle to remain on such property longer than 10 days; and no person shall leave any such vehicle on any property within the Village for a longer time than 10 days; except that this subsection shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This section shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Village or any other public agency or entity. **[Amended by Ord. No. 91-9-12A]**

- (1) Definitions. As used in this chapter, the following terms shall have the meanings ascribed to them:

ABANDONED VEHICLES — All vehicles in a state of disrepair rendering the vehicle incapable of being driven in its condition, or any vehicle that has not been moved or used for seven consecutive days or more and is apparently deserted.

ANTIQUÉ VEHICLE — Any motor vehicle or other vehicle 20 years of age or older.

INOPERABLE MOTOR VEHICLE — Any motor vehicle which cannot presently be operated on a street or highway of the Village either due to physical defects in the motor vehicle or due to legal prohibitions, including but not limited to, want of licenses, defective parts, absence of required parts, etc.

LAWFULLY OCCUPIED — To premises occupied under contract, license or other consent.

MOTOR VEHICLE — An auto, car, motorcycle, truck, truck trailer, auto trailer, boat trailer, camper or any other vehicle for use on the streets or highways, as well as any constituent part.

- (2) Exceptions. The requirements and provisions of this chapter shall not apply to:
 - (a) Vehicles specifically exempt from local licensing pursuant to the laws of the United States or the State of Illinois.
 - (b) Legally licensed antique vehicles.
- (3) Acts prohibited. No person shall engage in any of the following acts:
 - (a) The abandonment of any motor vehicle on any street, highway, alley or other public way within the Village.
 - (b) The abandonment of any motor vehicle on any public property or on any private property within the Village.
 - (c) The parking of any inoperable motor vehicle on any street, highway, alley or other public way within the Village where the same constitutes a hazard or dangerous condition for persons and property lawfully using the same.
 - (d) The parking of any inoperable motor vehicle on any street, highway, alley or other public way within the Village for more than 48 hours.
 - (e) The parking of any inoperable motor vehicle on any private property, except property owned or lawfully occupied, or on public property, without the consent of the owner or lawful occupant for more than eight hours.
 - (f) The parking of any inoperable motor vehicle on private residentially-zoned property and allowing the motor vehicles to remain there for more than 14 days, if the vehicle is open to the view of the public.
- (4) Removal of abandoned and inoperable vehicles. Whenever any act prohibited by this chapter is perpetrated, the Police Department of the Village shall have the right to authorize removal of the vehicle concerned by towing at the time the prohibited act becomes violative of this chapter, as follows:

- (a) The police may remove a motor vehicle abandoned on any street, highway, alley or other public way within the Village Immediately upon a determination of abandonment by the Police.
 - (b) The police may remove a motor vehicle abandoned on any private or public property immediately upon a determination of abandonment by the police.
 - (c) The police may remove an inoperable motor vehicle from any street, highway, alley or other public way within the Village immediately upon a determination by the police that the vehicle is inoperable, and that it constitutes a hazard or a danger to persons and property lawfully using the highway.
 - (d) The police may remove an inoperable motor vehicle from any street, highway, alley or other public way within the Village where the vehicle has been parked for more than 24 hours, and is apparently inoperable.
 - (e) The police may remove an inoperable motor vehicle from any other public or private property, except a motor vehicle on property of the owner of the vehicle, or one lawfully entitled to park there, here the vehicle has been parked for more than seven days without the consent of the owner or person lawfully occupying the premises.
 - (f) The police may remove an inoperable motor vehicle from any private residentially-zoned property, including property owned or lawfully occupied by the owner of the vehicle where the same is open to public view.
- (5) Impoundment. After impounding a motor vehicle pursuant to Subsection C(4), the police shall deal with the motor vehicle as follows. Whenever any citizen of the Village is the victim of an act done in violation of this chapter, he shall have the right to request the police to remove the vehicle by towing. Thereafter, the police shall deal with the vehicle as if they had initiated the removal. The person who abandons the vehicle or parks an inoperative vehicle in violation of this chapter shall have the responsibility for all towing, storage, advertising, disposal and related costs.
- (a) Complaint filed. Within 48 hours of having a vehicle towed pursuant to this chapter, the officer initiating the towing may cause a complaint to be filed charging the registered owner with a violation of this chapter. The registered owner shall be responsible for the violation in all cases except when, and only when, a stolen auto report has been filed prior to the tow occurring with an authorized law enforcement agency.
 - (b) Records. When a motor vehicle or other vehicle is authorized to be towed away pursuant to this chapter, the Village Police Department shall keep and maintain a record of the vehicle towed, listing the color, the year of manufacture, the manufacturer's trade name, the manufacturer's series name, the body style, the vehicle identification number, and the license plate year and number displayed on the vehicle. The record shall also include the date

and hour of the tow, the location towed from, the location towed to, the reason for the towing, and the name of the officer authorizing the tow.

- (c) Reclaim and liability for expenses. Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided in this chapter, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner or other person under this section until all towing and storage charges have been paid.
- (6) Disposal of unclaimed vehicles.
- (a) Whenever an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle, seven years of age or newer, remains unclaimed by the registered owner or other person legally entitled to its possession for a period of 30 days after notice has been given as provided in this chapter, the Police Department having possession of the vehicle shall cause it to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least 10 days prior to the sale on the premises where the vehicle has been impounded. At least 10 days prior to the sale, the Police Department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner or other person known by the Police Department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.
 - (b) In those instances where the certified notification specified has been returned by the postal authorities to the Police Department due to the addressee having moved or being unknown at the address obtained from the registration records of this state, the sending of a second certified notice will not be required.
 - (c) When the identity of the registered owner or other person legally entitled to the possession of an abandoned, lost or unclaimed vehicle of seven years of age or newer cannot be determined by any reasonable means, the vehicle may be sold as provided or disposed of in the manner authorized by this chapter without notice to the registered owner or other person legally entitled to the possession of the vehicle.
 - (d) When an impounded vehicle of more than seven years of age is impounded as specified by this chapter, it will be kept in custody for a minimum of 10 days for the purpose of determining ownership, the contacting of the registered owner by the United States mail, public service or in person for a determination of disposition and, an examination of the state police stolen motor vehicle files for theft and wanted information. At the expiration of the ten-day period, without the benefit of disposition information being received

from the registered owner, the Chief of Police will authorize the disposal of the vehicle as junk only.

- (e) When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this chapter, a report of the transaction will be maintained by the Police Department for a period of one year from the date of the sale or disposal.
 - (f) When a vehicle located within the corporate limits of the Village is authorized to be towed away by the Chief of Police, or other office acting in his behalf, and disposed of as set forth in this chapter, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the Village treasury.
- (7) Liability for damages. Any police officer, towing service owner, operator or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this chapter.
- (8) Penalty for violation. Any person violating any of the provisions of this chapter shall be fined not less than \$25 nor more than \$500 for any such offense. Each day that a violation continues shall constitute a separate offense.
- D. Enforcement. Enforcement of this section may be accompanied by the Village in any manner authorized by law, and in addition, any person who by reason of another's violation of any provision of this section, suffers special damage to himself different from that suffered by other property owners throughout the Village generally, may bring an action to enjoin or otherwise abate an existing violation.
- E. Penalty. Any person, firm or corporation violating any of the provisions of this section shall be fined not less than \$25 nor more than \$500 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 208-8. Violations and penalties.

Any person convicted of violating any provisions of this chapter where no other penalty is provided to the contrary, shall be fined in a sum not less than \$25 nor more than \$500.