

CHAPTER 8 HEALTH AND SAFETY

(Was Renum. and Recr. from Title 8-Am. LGRS Codification 2001)

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INTRODUCTION

- 8.01 PURPOSE AND INTENT.** This Chapter is adopted to promote the health, safety, prosperity, aesthetics and general welfare of the people within the Village; to regulate the location, construction, installation, alteration, design and use of all private water supply and sewage disposal systems so as to protect the health of residents; to secure safety from disease and pestilence; to further the appropriate use and conservation of certain land and water resources and to preserve and promote the general beauty of the Village.
- 8.02 ABROGATION AND GREATER RESTRICTIONS.** It is not the intent of this Chapter to repeal, annul, abrogate, impair or otherwise interfere with any existing permits, agreements, rules, regulations, ordinances, covenants, or deed restrictions previously adopted or issued pursuant to the law. The provisions of this Chapter shall govern wherever same imposes greater restrictions.
- 8.03 INTERPRETATION.** The provisions of this Chapter shall be interpreted and applied as minimum requirements, shall be construed in the favor of the Village and shall not be deemed a limitation or repeal of any power granted by Wisconsin State Statutes.

GENERAL PROVISIONS

- 8.04 DUTCH ELM DISEASE.** (Was Chapter 8.04 §§.010 to .100) (1) **VILLAGE FORESTER-POSITION CREATED** (Was §8.04.010) The office of village forester is created. The forester shall be appointed by the village board, subject to confirmation of the village board, and shall receive such salary as may be authorized by the village board. The power and duties of the village forester as set forth in this section are combined with the office of Public Works.
- (2) **NUISANCE DECLARED.** (Was §8.04.020) The following are public nuisances wherever they may be found within the village.
- (a) Any living or standing elm tree or part thereof infected with the dutch elm disease fungus *Ceratocystis ulmi* (Buisman) Moreau, which harbors any of the elm bark beetles *Scolytus multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh).;
- (b) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

(3) NUISANCES PROHIBITED. (Was §8.04.030) No person, firm or corporation shall permit any public nuisance as defined in subs (2) to remain on any premises owned or controlled by said person or corporation within the village.

(4) INSPECTION. (Was §8.04.040) (a) The village forester shall inspect or cause to be inspected all premises and places within the village at least twice each year to determine whether any public nuisance as defined in subs. (2) exists thereon, and shall also inspect or cause to be inspected any elm tree reported or to be infected with the dutch elm disease fungus or any elm bark-bearing material reported or suspected to be infested with the elm bark beetle.

(b) The village forester shall have the authority to enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this section.

(5) ABATEMENT OF DUTCH ELM DISEASE NUISANCES. (Was §8.04.05) (a) Whenever the village forester finds with reasonable certainty on examination or inspection that any public nuisance as defined in this section exists within the village, he or she shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of dutch elm disease fungus or the insect pests or vectors known to carry such disease.

(b) Before abating any nuisance on private premises or in any terrace strip between the lot line and the curb, the forester shall proceed as follows: 1. If the forester determines that danger to other elm trees from the nuisance is not imminent because of elm dormancy, he shall make a written report of his findings to the village board which shall proceed as provided in §27.09, Wis. Stats.

2. If the forester determines that danger to other elm trees within the village is imminent, he shall notify the owner or abutting owner of the property on which such nuisance is found in writing, if he can be found, otherwise by publication in a newspaper or general circulation in the village that the nuisance must be abated as directed in the notice within a specified time, which, shall not be less than ten days from the date of such notice, unless the forester finds that immediate action is necessary to prevent the spread of infection. If the owner fails to comply with the notice within the time limited, the forester shall cause the abatement thereof .

3. No damage shall be awarded to the owner for destruction of any elm tree, elm wood or elm material or any part thereof pursuant to this section.

(6) SPRAYING. (Was §8.04.060) (a) Whenever the forester determines that any elm tree or elm material within or near the village is infected with dutch elm disease unguis, he may cause to be sprayed all high value elm trees within a one thousand foot radius thereof with an effective elm bark beetle-destroying concentrate; provided such spraying shall be performed prior to July 15th or after October 15th, of any year.

(b) Before causing the spraying of any elm tree on private property in accordance with this section, the forester shall notify the owner as provided in subs. (5).

(7) ASSESSMENT OF COSTS OF ABATEMENT AND SPRAYING. (Was §8.04.070) (a) The entire cost of abating any public nuisance as defined in subs (2), or of spraying any elm tree in accordance with subs. (5), shall be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with §§66.60(16) and 27.09, Wis. Stats. The cost of abating any such nuisance or spraying any elm tree or part thereof which is located in or upon any park or public grounds shall be borne by the village.

(b) The village forester shall keep strict account of the costs of work done under this section and shall report monthly to the village clerk/treasurer all work done for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The clerk/treasurer shall include in his or her report to the village board the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against said parcels or lots in the same manner as other special taxes.

(8) TRANSPORTING OF ELM WOOD PROHIBITED. (Was §8.04.080) No person, firm or corporation shall transport within the village any bark bearing elm wood or materials without first securing the written permission of the village forester.

(9) INTERFERENCE WITH VILLAGE FORESTER PROHIBITED. (Was §8.04.090) No person, firm or corporation shall prevent, delay or interfere with the village forester or any of his agents or village employees while they are engaged in the performance of duties imposed by this section.

(10) VIOLATION AND PENALTY. (Was §8.04.100) Any person, firm or corporation which violates any of the provisions of this section shall, upon conviction thereof, be subject to the procedure set forth in Chapter 25.

ORDINANCE NO. 2019- 02

VILLAGE OF BROWNSVILLE, DODGE COUNTY, WISCONSIN

An Ordinance Restricting Burning of Refuse, Open Burning and Recreational Fires

WHEREAS, the village board of the Village of Brownsville desires to repeal and re-create section 8.08 of the Brownsville Municipal Code to regulate restrict burning, open burning and burning of refuse.

NOW, THEREFORE, the Village Board of the Village of Brownsville do ordain as follows:

I. Section 8.08 of the Brownsville Municipal Code is hereby repealed and re-created to read as follows:

8.08 REFUSE BURNING, OPEN BURNING AND RECREATIONAL FIRES.

(1) OPEN BURNING-PROHIBITION. It is unlawful for any person or persons within the Village limits to burn trash, rubbish, lumber, combustible waste, grass, garden waste or other refuse or material of whatever natures leaves, or any other combustible material in any street, alley, vacant lot, or on any private property of oneself or another unless specifically allowed by the provisions of this chapter.

(A) The operation of outdoor grills, outdoor fireplaces and related outdoor cooking equipment for outdoor cooking of food only shall be permissible subject to provisions contained in this section.

(2) EXEMPTIONS TO BURNING RESTRICTIONS

(A) No permit shall be required for the burning of brush or other materials by Village employees while on duty. The Brownsville Fire Company may conduct controlled burns to train without obtaining a burning permit. No other persons may burn any combustible substance within the Village limits without special permission from the Chief of the Brownsville Fire Company.

(B) PERMISSIBLE BURNING RESTRICTIONS.

(1) Burning shall be done with due regard as to weather conditions, safety of surrounding property, and comfort of citizens in the neighborhood. All burning must be done with an adult in constant attendance.

(2) No person, firm or corporation shall build any outdoor fire within the corporate limits of the Village of Brownsville except as set forth:

(a) Outdoor cooking over a fire contained in a device or structure designed for such use.

(b) Material used to make a cooking fire cannot include construction materials, trash, rubbish or other combustible waste.

(c) All cooking devices must be in good working condition to prevent the possible spread of fire.

(3) For all multifamily dwellings more than one story in height, the use and/or storage of any propane or charcoal portable cooking device or any portable fireplaces is strictly prohibited above the first-floor occupancy.

(4) For all multifamily dwellings more than one story in height, the use of any open or closed outdoor cooking device, any approved portable fireplace device, or any open flame device is prohibited within 25 feet of the structure on the ground floor or any combustible material on the ground floor.

(C) RECREATIONAL FIRES

Intent. It is the intent of the Village of Brownsville that citizens shall have the opportunity to have recreational fires at single-family and multi-family dwellings, provided that such fires are in strict compliance with restrictions relating to recreational fires. It is further the intent of the Village of Brownsville that the Brownsville Police Department and Brownsville Fire Company shall strictly enforce these restrictions so as to ensure that such fires do not compromise safety or annoy neighbors.

(1) No recreational fires may be started or allowed to continue burning unless such recreational fire is fully contained within an approved permanent fire pit, portable fire place device or outdoor fireplace.

(a) An approved fire pit is any below ground dug pit not greater than 36 inches inside diameter (inside edge of the pit to inside edge); lined with noncombustible material, soil, metal or stone; a minimum of six inches deep; and ringed on the outer diameter with stone, brick or concrete.

(b) An outdoor fireplace is any commercially available appliance designed to contain a wood fire when operated according to manufacturer's instructions with all lids, screens and spark arresting devices in place; or permanent fireplace structure built entirely of noncombustible materials designed with spark arrestors and screens to contain a wood fire.

(c) An approved portable fire place device is a structure or device intended to contain and control outdoor wood-only fires. This shall include a structure which although not portable is designed to contain and control outdoor wood fires.

(2) No recreational fire pit shall be closer than 25 feet to any dwelling, building structure, shed or garage or closer than 10 feet to any wooden fence, deck or combustible material. Commercially available permanent or portable outdoor

fireplaces shall not be within 10 feet of any structure or combustibles. All recreational fires are to be set back a minimum of six feet from adjoining property lines.

(3) No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause embers or other burning material to be carried onto any building or combustible material; nor any time that wind direction will carry smoke into the open windows of any building. Smoke from any recreational fire shall not create a nuisance for neighboring properties and fires shall be completely extinguished when the Brownsville Police Department or Brownsville Fire Company investigation determines a nuisance is present.

(4) Fuel for outdoor recreational fires shall consist of natural wood or manufactured fire log material only and may not include leaves, rubbish, garbage, trash, construction materials, or any materials made of or coated with rubber or plastic, leather or petroleum-based materials. Flammable or combustible liquids other than commercially available charcoal lighter fluid may not be used to aid in starting any outdoor fire. Flammable or common/standard dry kindling materials may be used to aid in starting any outdoor fire.

(5) Recreational fires shall be constantly attended and supervised by a competent person at least 18 years of age until the fire has been completely extinguished. The means for extinguishing any fire (as deemed necessary by the Fire Chief) must be kept immediately available at all times when a recreational fire is burning. Proper fire extinguishing equipment includes: a garden hose, shovels, water buckets or an ABC rated fire extinguisher at least ten-pound capacity.

(D) OTHER RESTRICTIONS ON BURNING

(1) Ceremonial bonfires may be permitted by the Fire Chief upon written receipt of a written request for the fire. Requests for permission shall contain date, time and site of proposed fire as well as the name of the requesting group or organization and shall be submitted to the Fire Chief three business days prior to the date desired for the holding of the fire. The allowable quantity of material to be burned shall be determined by the Fire Chief and shall be based upon the fire safety considerations of the situation and the desired duration of the burn. Material for bonfires may not include rubbish, garbage, trash, any materials made of or coated with rubber, plastic, leather or petroleum based materials and may not contain any flammable or combustible liquids.

(2) The burning of brush and other natural vegetation, when its removal is required for the development of that property, may be permitted with the consent of the Fire Chief. Each request will be reviewed by the Fire Chief or his designee. If the site and conditions are acceptable, verbal or written authorization to conduct the burn may be issued.

(3) Open-flame candles and fixtures. No airborne open flame device, i.e., sky lantern, may be launched or used, free-floating or tethered in the Village of Brownsville. Airborne open-flame devices from neighboring jurisdictions that

enter into the Village are also prohibited. The term "sky lantern" as used in this section means any airborne lantern typically constructed from paper with a wood, metal or cardboard frame containing a candle or fuel cell composed of a waxy flammable material or other open flame which serves as a heat source to heat the air inside the lantern to cause it to lift into the air. Sky candles, fire balloons and airborne paper lanterns means the same as sky lanterns.

(4) The Brownsville Police Department shall be notified whenever permission is given for permissible burning under this section.

(3) OPEN BURNING-SPECIAL PERMISSION.

(A) Should it be necessary for any person or persons to burn combustible material within the village limits, special permission must be obtained from the Chief of the Brownsville Fire Company or in his absence one of the assistant chiefs.

(B) The burning of brush and other natural vegetation, when its removal is required for the development of that property, may be permitted with the consent of the Fire Chief. Each request will be reviewed by the Fire Chief or his designee. If the site and conditions are acceptable, verbal or written authorization to conduct the burn may be issued.

(C) The Brownsville Police Department shall be notified whenever permission is given for permissible burning under this section.

(4) CHIEF MAY REGULATE AND PROHIBIT. The Fire Chief or his designee is permitted to prohibit all outdoor burning when atmospheric conditions or local circumstances make such fires hazardous. The Fire Chief or his designee or the Village Marshal may order a fire to be immediately extinguished when the fire is deemed hazardous to the safety of Village residents or properties within the Village limits.

(5) VIOLATION AND PENALTY. Any person or persons found guilty of violation of this section shall be subject to the penalty provisions set out in Chapter 25.

II. This ordinance shall become effective upon passage and publication according to law.

Passed by the Village Board of the Village of Brownsville in the County of Dodge, in the State of Wisconsin this 10th day of April, 2019.

Jeffrey B. Bloohm, Village President

**8.12 REFUSE ON
STREET**

VILLAGE OF BROWNSVILLE, DODGE COUNTY, WISCONSIN, NOVEMBER, 2006
ORDINANCE NO. 2006-01

**AN ORDINANCE PROHIBITING DIRT AND DEBRIS ON STREETS AND PRIVATE
PROPERTY**

WHEREAS, The Village Board of the Village of Brownsville finds that the health and well-being of the residents of the Village of Brownsville calls for this ordinance prohibiting debris and refuse on streets and private property.

NOW, THEREFORE, the Village Board of the Village of Brownsville do ordain as follows:

SECTION I: Section 8.12 of the Brownsville Municipal Code is hereby amended to read as follows:

8.12 Dirt and Debris on Streets and Private Property.

(1) Prohibition.

(a) *Unlawful deposits.* It shall be unlawful for any person to deposit or cause to be deposited, dump, sort, scatter or leave any rubbish, stone, wire, earth, ashes, cinders, sawdust, hay, glass, manure, filth, paper, snow, ice, dirt, grass, leaves, construction waste, garbage or other offensive or noxious material in any public street, sidewalk or alley or upon any public property or upon any property of another, without the express permission of the owner or occupant thereof.

(b) *Dirt and debris on streets.* Unlawful deposits of dirt and debris on streets and procedures for removal are as follows:

(1) In the interests of public safety, health and general welfare, community appearance and efficiency of operation, it shall be unlawful to place, throw, leave, in any way deposit or permit to be deposited or permit to remain any dirt, leaves, rubbish, litter, debris or material of any kind upon any street, sidewalk, alley, drainageway or public ground in the village, except that the village may pick up leaves during cleanup weeks, provided they are placed in proper receptacles or containers, or in deposit areas to be designated by the village staff at the time of any pickup.

(2) The owner, occupant or person in charge of private premises who places, causes or permits to remain any of such materials upon any street, sidewalk, alley, drainageway or public ground in the village shall immediately remove such materials at no cost to the village.

(3) a. The operator of any motor vehicle which tracks, drops or places any materials upon any street, sidewalk, alley, drainageway or public ground in the city shall immediately stop and remove such materials at no cost to the village.

b. If such operator is performing work under the control or authority of the village, or the owner, occupant, or person in charge of the work on private premises and such operator causes the deposit of any such materials upon any street, sidewalk, alley, drainageway or public ground in the village and such operator fails to remove the materials as required in subsection (b) of this section, the owner, occupant or person in charge of the work on the private premises shall remove the materials at no cost to the village.

(4) If the materials are not removed from the street in accordance with subsections (b)(2) and (b)(3)a of this section, the village shall cause the removal of such materials and shall charge the operator or the owner, occupant or person in charge of the work the cost of the removal. If the

person charged for such removal fails to pay such costs within 30 days, in addition to any collection remedies allowed by law to be taken against the operator or the owner, occupant or person in charge of the work, such cost of collection shall be entered on the tax rolls a special tax or charge against the property.

(c) *Depositing Garbage In Private Containers.* It shall be unlawful for any person or corporation to deposit any garbage in any container which is owned, leased or rented by another.

(d) *Depositing Household Garbage In Public Containers.* It shall be unlawful for any person or corporation to deposit any household garbage in any container owned by the Village of Brownsville and placed along streets and in parks for the sole purpose of collection of refuse generated by the general public in those areas.

(e) *Depositing Garbage In Or Along Waterways.* It shall be unlawful for any person or corporation to deposit any garbage in or on the shoreline of any creek, river or pond in the Village.

(2) VIOLATION-PENALTY. (Was §8.12.020, as amended 2001) In addition to the costs of removal, any person or entity violating the provisions of this section shall, upon conviction, be subject to the penalty provisions set forth in Chapter 25. Each day a violation of these provisions exists or continues shall constitute a separate violation hereunder

SECTION II: This Ordinance shall be effective from and after its passage and publication as provided by law.

Passed by the Village Board of the Village of Brownsville in the County of Dodge, in the State of Wisconsin on this 14th day of December, 2006.


Harold Johnson, Village President

ATTEST:


Carolyn Kerch, Village Clerk

8.13 AIR POLLUTION CONTROL. (Was Ch. 8.13, cr. 9/14/60) (1) DECLARED A NUISANCE PROHIBITED. (Was §8.13.010) In the interests of the public health and welfare of the residents of the village of Brownsville, Wisconsin, any smoke, cinders, fly-ash, soot, fumes, dust, noxious gases, or other waste discharged from fuel burning equipment, internal combustion engine, premises, open fire, stack or chimney, or from any other source which results in air pollution to a degree which causes injury, detriment, nuisance or annoyance to any considerable number of persons, or to the public, or which endangers the comfort, repose, health or safety of any such persons, or the public, or which causes or has a natural tendency to cause injury or damage to business or property, shall be and hereby is declared to be a nuisance and the same is hereby prohibited, except as specifically permitted herein under subs. (2).

(2) LIMITS OF EMISSION AND STANDARD OF MEASUREMENT. (Was §8.13.020) (a) No person, be they owner, tenant, lessee, individual, partnership, syndicate, association, company, firm, trust, corporation, government corporation, department, bureau, agency, or other entity recognized by law as the subject of rights and duties, shall cause, suffer, or all to be emitted into open air from any stack or chimney, fuel burning equipment, internal combustion engine, premises, open fire, or any other source, smoke the shade or density of which is equal to or greater than No. 2 of the Ringleman chart, said Ringleman chart, as published by the united states Bureau of Mines, being the standard by which the shade or density of smoke is measured for the purposes of this section, except as follows:

(a) Smoke, the shade or density of which is equal to but does not exceed No. 2 of the Ringleman chart may be emitted from stack or chimney for a period of not to exceed two minutes in any thirty minute period;

(b) when the firebox or furnace, of which such stack or chimney is the outlet, is being cleaned out or a new fire is being built therein , in which case smoke the shade or density of which is equal to but does not exceed No. 3 of the Ringleman chart may be emitted for a continuous period of not to exceed five minutes ill any sixty minute period;

(c) when a breakdown of equipment occurs such as to make it evident that the emission was not reasonably preventable.

(3) PERSONS LIABLE. (Was §8.13.030) All persons owning, operating, or in charge or control of any equipment who cause or permit or participate in any violation of this ordinance either as proprietors, owners, lessees, tenants, managers, superintendents, janitors, engineers, fireman, or otherwise shall be individually and collectively liable for any penalties imposed by this ordinance.

(4) ENFORCEMENT. (Was §8.13.040) It shall be the duty of the Police Chief of the Village of Brownsville to investigate complaints and to observe violations under this ordinance, and he shall have the authority to institute actions against all persons violating any of the provisions of this ordinance.

(5) ADVISORY BOARD. (Was §8.13.050) The Village Board of the Village of Brownsville shall not act as advisors to the Police Chief in matters pertaining to the enforcement of this ordinance. This Board may, on petition of any person or persons observed in violation of this of, in writing and filed with the president of this board, grant said person or persons a reasonable time period to secure and install corrective equipment or otherwise provide for compliance with the requirements of this ordinance, during which period they will not be subject to the fines and penalties herein prescribed. A formal hearing, after due notice to all parties concerned shall be conducted on receipt of such written petitions, and records of such action shall be filed with the Village Clerk.

(6) PENALTIES FOR VIOLATION. (Was §8.13.060)

(a) Any person who shall violate any provision or the provisions of this ordinance shall upon conviction thereof, be sentenced to pay a fine of not less than \$25.00 nor more than \$50.00 for the first violation thereof, and not less than \$25.00 nor more than \$100.00 for each succeeding violation, together with the costs of the action, and in default of payment of said fine and costs of prosecution, the person shall be imprisoned for a period not to exceed thirty days.

(b) Each day, on which one or more unlawful emissions of smoke, cinders, fly-ash, soot, fumes, dust, noxious gases, or other waste occurs, shall constitute a separate offense.

8.16 WEEDS. (Was Ch. 8.16) (1) **ABATEMENT-DUTY ASSIGNED.** (Was §8.16.010) It shall be the duty of every owner, occupant, agent or person in charge of any lot or parcel of land within the limits of this village to destroy all Canada thistle, grass or other noxious weeds growing upon such premises or on the sidewalk or street upon which said premises abut on or before the first day of July in each year.

(2) ABATEMENT-VILLAGE ACTION. (Was §8.16.020) It shall be the duty of the Public Works to notify tile owners or occupants of such land within this village to destroy such thistles, grass and such noxious weeds if found growing therein. Should such owner or occupant neglect or fail to obey tile provisions of this section, within twenty-four hours after having received such notification, public works shall then proceed to cut down or otherwise destroy such Canada thistles, or other noxious weeks in all cases where the owner or occupant of such lots fails to do so, and the expense thereof shall be a lien upon each such lot. The public works shall keep an account of such expense and make a report of the same to the village clerk/treasurer who shall enter the amount therein charged to each lot or parcel of land in the next or subsequent tax roll as a special tax against such lot or parcel of land, and the same shall be collected in all respects like other village tax upon real estate.

8.20 EXPLOSIVES. (Was Chapter 8.20)

(1) (Was §8.20.010) **STORAGE OF DESIGNATED SUBSTANCES PROHIBITED.** It is unlawful to store or keep any dynamite, nitroglycerin, giant powder or other explosives other than gunpowder in any storeroom, wareroom, building, or on any premises within the village limits.

(2) GUNPOWDER-STORAGE CONDITIONS. (Was §8.20.020) No more than five pounds of gunpowder may be kept in closed metal canisters in a storeroom or wareroom away from artificial heat or light, and not more than fifty pounds of gunpowder may be kept if in a magazine made of fireproof material or of wood covered with sheet iron and mounted on wheels and kept securely locked, except when necessarily opened for use by authorized persons, and not more than one thousand blasting caps in a similar, but separate magazine. The magazines shall be conspicuously labeled in red letters at least four inches high, "EXPLOSIVES" and located within the building, on the floor nearest the street level and within ten feet of the street entrance.

(3) GUNPOWDER-PERMIT REQUIREMENT. (Was §8.20.030) Any person, firm or corporation who sells or stores owner shall obtain a permit from the village clerk, who shall inspect the place where same is kept. The dealer shall fully disclose to the village board where same is kept both in the day and nighttime.

(4) VIOLATION-PENALTY. (Was §8.20.040) Any person, firm or corporation violating any of the provisions of this section shall be subject to the penalty provisions set forth in Chapter 25.

8.22 STORING JUNK, JUNKED VEHICLES OR ABANDONED VEHICLES. (Was Chapter 8.24, as am. Codification 2001, LGRS)

(1) PROHIBITION. (Was §8.24.010) The keeping, housing, storing and placing of all junk, such as all scrap iron, wrecked trailer, vehicles, bottles, jugs, rags, broken glass, paper of all kinds, all scrap metal, and anything which from its worn condition renders it practically useless for the purpose for which it was made, and what is commonly classed as junk, is a public nuisance and detrimental to the public health and welfare of the citizens of the village.

(2) DEFINITIONS. (a) Abandoned Or Junked Motor Vehicles. (Was §8.24.015) **1.** Junked Motor Vehicles And Accessories. Junked motor vehicles and accessories are defined as any self-propelled land vehicle which can be used for touring or transporting people or materials, including but not limited to automobiles, trucks, trailers, buses, motorized campers, motorcycles, motor scooter, tractors, snowmobiles and their accessories.

2. Abandoned Motor Vehicles. Abandoned motor vehicles are defined as a motor vehicle which through disuse and failure to be used remains in one location for a period of 30 days, or a motor vehicle which has been reported stolen to any police department, or a motor vehicle which does not have a current motor vehicle license.

(3) STORAGE. (Was §8.24.016)

(a) No disassembled, dismantled, junked, wrecked, inoperable, or unlicensed vehicle or their accessories, shall be stored or allowed to remain on any public property for a period of no more than 48 hours.

(b) No disassembled, dismantled, junked, wrecked, inoperable, or unlicensed vehicle or their accessories, shall be stored or allowed to remain on any private property for a period of no more than five (5) days.

(c) Exceptions: 1. This section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed structure or on the premises of a business enterprise operated in a legally zoned area and manner when necessary to the operation of such business enterprise.

2. Seasonal-use vehicles such as snowmobiles, motorcycles, motor scooters, motorized and non-motorized campers, trailers and boats provided such vehicles are stored in rear-yard areas.

(4) WRECKED OR JUNKED AUTOS.(Cr. Codification 2001) **(a) General.** No building or premises in the Village shall hereafter be used for the business of wrecking motor vehicles, or the conduct of motor vehicle junking, except those already in Village of use or operation, without express approval of the Village Board.

(b) **Junk Yards.** No junk yard or salvage depot of any nature shall be created or used as such in the Village, except those already in use or operation, without approval by the Village Board.

(6) **ABANDONED VEHICLES.** (Cr. During Codification 2001, LGRS) (a) **Vehicle Abandonment Prohibited.** No person shall leave unattended any motor vehicle, trailer, semi-trailer, or mobile home on any public street or highway or public or private property for such time and under circumstances as to cause the vehicle to reasonably appear abandoned. When any such vehicle has been left unattended on any Village of Brownsville street or highway or on any public or private property within the Village of Brownsville without the permission of the owner for more than 72 hours, the vehicle is deemed abandoned and constitutes a public nuisance.

(b) **Removal And Impoundment Of Abandoned Vehicles.** Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under sub. 3, except that if the Police Chief or his authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked by the Village of Brownsville prior to expiration of the impoundment period upon determination by the Police Chief or his authorized representative that the vehicle is not wanted for evidence or other reason.

(c) **Disposal Of Abandoned Vehicles With Value Over \$500.** 1. If the Police Chief or his or her authorized representative determines that the value of the abandoned vehicle exceeds \$500, he or she shall notify the owner and lien holder(s) of record by certified mail that the vehicle has been deemed abandoned and impounded by the Village of Brownsville and may be reclaimed within 15 days upon payment of accrued towing, storage and notice charges and, if not reclaimed, shall be sold.

2. If an abandoned vehicle is determined to exceed \$500 in value and is not reclaimed within the period and under the conditions as provided subd. 1., it may be sold by sealed bids. The description of the vehicle and the terms of sale shall be published as a Class 1 notice 5 days before the sale.

(6) **VIOLATION-PENALTY.** (Was §8.24.020 as am. By codification 2001) Any person, persons or corporation who within 30 days of having been properly notified by the village board, violates the provisions of this section shall be punished according to the penalty provisions of Chapter 25.

8.24 DISPOSAL OF LOST AND ABANDONED PROPERTY OTHER THAN VEHICLES.

(Created during codification 2001, LGRS) (1) Property which appears to be lost or abandoned, discovered by officers or turned in to the Police Department by citizens, shall be disposed of according to this section.

(2) Lost and abandoned property will be examined by the Village Police Department for identifying marks in an attempt to determine the owner. If identifying marks are present, they will be used by the Police Department to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be turned over to the Police Department evidence room and logged in per Police Department policy.

(3) No police officer shall keep for his or her own use, property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.

(4) The Police Department shall permit citizens to claim lost property if they can provide sufficient proof that they are the rightful owners. Also, any person who turns in lost property may claim said property after six (6) months if the rightful owner cannot be located.

(5) Lost or abandoned property shall be disposed of in the following manner:

(a) As authorized under §66.28, Wis. Stats., the Police Department may hold a sale to dispose of any property which has been abandoned or which remained unclaimed for a period of 6 months after having been taken into possession by the Department. If the property is usable for any Department operation within the Village of Brownsville, the property need not be sold at sale but may become property of the Village, or,

(b) The Police Department shall post a public notice at the Police Department. The notice shall be in the same form as required for disposal of abandoned vehicles as set down by §342.40, Wis. Stats.

(6) This shall not prohibit any municipal employee from exercising the same rights as any other citizen to receive any lost, stolen, or unclaimed property signed by the Chief of Police or his designee.

(7) If the Police Department is unable to sell property at public sale as provided herein, or if such property has a value of \$25.00 or less, as determined by the Chief of Police, and the Chief of Police determines that it would not be economically prudent to attempt to sell this property at public sale, the Chief of Police shall notify the Village Board with a list of such property, inclusive of its estimated fair market value. The Village Board, by majority vote, may direct the Chief of Police to either retain the property to be sold at the next public sale or to donate the property to a charitable nonprofit organization within the State of Wisconsin that is registered with the office of the Wisconsin Secretary of State.

- 8.25 REGULATING MAINTENANCE OF PROPERTY.** (Renum. and recr. fr. Ordinance No. 1995-3) (1) **PURPOSE.** (Was §8.25.010) When buildings or structures and the premises area are in a state of disrepair or not in a neat and attractive appearance, a condition is created which may cause or contribute to injury of persons or property, unsanitary conditions endangering the health and safety of persons using the premises and the depreciation of real estate property values in the Village. Each of the above conditions created a public nuisance.
- (2) **EXTERIORS.** (Was §8.25.020) With respect to all buildings or structures, including fences, planters, and retaining walls, the owner, occupant or agent shall keep the exterior thereof in a neat and attractive appearance and structurally sound, and including but not limited to, shall repaint or use preservatives on the exterior from time to time as reasonably required to maintain the same, and shall keep stone or brick adequately tuck-pointed and shall keep other building material in a neat and attractive condition.
- (3) **PLANTINGS AND LAWNS.** (Was §8.25.030) The owner, occupant or agent of all premises shall maintain trees, shrubs, and other plantings in a neat and attractive appearance. Dead or dying trees or shrubs shall be removed. Grass shall be cut as often as may be necessary to maintain a neat and attractive appearance. If grass exceeds four inches in height there is a presumption that there is not a neat and attractive appearance except in the case of a maintained natural lawn.
- (4) **STORAGE OF PROPERTY.** (Was §8.25.040) The owner, occupant or agent of all premises shall not store outside property not in good operating condition and property not usable on the premises.
- (5) **LITTER** (Was §8.25.050) The owner, occupant or agent of all premises shall at all times keep the premises clean of all letter and shall take such necessary measures to prevent litter from being carried by the elements to adjoining premises. Litter may include, but is not limited to, any garbage, trash, refuse, debris, grass clippings, lawn and garden waste, newspapers, wrapping papers, magazines, glass, containers and construction material except where permitted by Village rules and regulations.

(6) NON-RESIDENTIAL PREMISES. (Was §8.25.060) In addition to the above, occupant or agent of all non-residential premises shall:

(a) Use only refuse, litter garbage and trash receptacles outside that are leak proof, secure against rodents and have permanent covers.

(b) Screen all outside refuse, litter, garbage and trash receptacles.

(c) Maintain all parking areas, driveways and approaches in a neat and attractive appearance and structurally sound, including but not limited to the elimination of holes, excavations, wet spots, breads, broken surfaces and bumps.

AN ORDINANCE REPEALING AND RECREATING SECTION 8.25(7) OF THE BROWNSVILLE MUNICIPAL CODE (PROPERTY MAINTENANCE - ENFORCEMENT)

Village of Brownsville 2016
Ordinance Number 2016-04

WHEREAS, the Village Board finds that for the good of public peace, health and safety, there is a need to involve village police, along with the Building Inspector, in the enforcement of section 8.25 of the Brownsville Municipal Code (regulating maintenance of property).

NOW, THEREFORE, the Village Board of the Village of Brownsville do ordain as follows:

1. Section 8.25(7) of the Brownsville Municipal Code is repealed and recreated to read as follows:

(7) ENFORCEMENT; NOTICE, HEARINGS. (Was §8.25.070)

(a) Service of Notice. Whenever the Building Inspector, or a village police officer, determines that there are reasonable grounds to believe that there has been a violation of any provision of this section, he shall give notice of such violation to the person or persons responsible therefor. Such notice shall: 1. Be in writing; 2. Include a description of the real estate sufficient for identification; 3. Include a statement of the reason or reasons why it is being issued and a statement of remedial actions, which, if taken, would effect compliance with the provisions of this ; 4. State a reasonable date for the performance of any remedial actions; 5. The notice shall advise the owner of the owner's right to request a hearing before the Village board pursuant to section 8.25(7)(c) and further advise the owner that the owner's failure to timely make such a request (within ten days of service of the notice) shall result in the notice of violation being deemed an order of violation. 6. Be served upon the owner, occupant or agent, as the case may require; provided, that such notice shall be deemed to be properly served upon such owner, occupant or agent, if a copy is delivered to him personally or, by leaving a copy at his place of abode with a person at least 18 years of age residing there or by mailing by certified mail a copy to the last address and the date of mailing shall be deemed date of service.

(b) Repairs or Remedial Action. 1. Whenever the owner, occupant or agent fails, neglects or refuses to take remedial action or take other corrective action called for by the notice provided in this section, and after the later of ten days from service, or the date stated in the notice, the Building Inspector or village police officer may undertake such repairs or take necessary remedial action if the cost of such repairs or remedial action will not exceed 50% of the

assessed value of the building or structure involved. 2. Notice of intention to make such repairs or to take other remedial action shall be served upon the owner, occupant or agent by personal service or by certified mail, return receipt requested. 3. Every owner, occupant, or agent who has received notice of the intention of the Village to make repairs or take action shall give entry and free access to the Village, its agent, Building Inspector, police officer, or an independent contractor for the purpose of inspection, and for making such repairs or remedial action. 4. Costs of repairs made or other remedial action taken at the direction of the Building Inspector, or village police officer, shall constitute a special charge for current services pursuant to §66.60(16), Wis. Stats., with a penalty of 10 percent per annum on the unpaid amount starting on the 30th day provided above. 5. The owner's failure to timely make a request (within ten days of service of the notice) for a hearing pursuant to section 8.25(7)(c) herein shall result in the notice of violation being deemed an order of violation.

(c) Petition for Hearing. 1. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this section may request and shall be granted a hearing before the Village Board, provided that such person shall file a written petition with the Village Board requesting such hearing and setting forth a statement of the grounds thereof within 10 days of service of the notice. 2. Within 10 days of filing of such petition, the Village Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the Village Board shall be commenced not later than 30 days after the date the petition was filed, provided that upon written application of the petitioner to the Village Board, the Board may postpone the date of the hearing for a reasonable time beyond such 30 day period if, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement. Between the date of filing the petition and the initial date of hearing and any adjournment granted by the Village Board, the Building Inspector and village police shall not undertake any repairs or remedial action. 3. After such hearing, the Village Board shall sustain, modify or withdraw the notice, depending upon its finding as to whether or not the provisions of this section have been complied with and shall reduce its order to writing and copy mailed by certified mail to the petitioner. 4. The Village Board may modify any notice so as to authorize a variance from the provisions of this section when, because of special conditions, a literal enforcement of the provisions of this section will result in practical difficulty or unnecessary hardship; provided that the spirit of this section will be observed, safety and welfare secured, and substantial justice done. If the Village Board sustains or modifies such notice, it shall be deemed to be an order, and the owner,

occupant or agent, as the case may require, shall comply with all provisions of such order within a reasonable period of time, as determined by said Village Board.

2. This ordinance shall become effective upon passage and publication as required by law.

Passed and approved December 14, 2016 by the Village Board of the Village of Brownsville in the County of Dodge, State of Wisconsin.

Jeffrey Bloohm, Village President

(b) Repairs or Remedial Action.1. Whenever the owner, occupant or agent fails, neglects or refuses to take remedial action or take other corrective action called for by the notice provided in this section, and after the later of ten days from service, or the date stated in the notice, the Building Inspector may undertake such repairs or take necessary remedial action if the cost of such repairs or remedial action will not exceed 50% of the assessed value of the building or structure involved.

2. Notice of intention to make such repairs or to take other remedial action shall be served upon the owner, occupant or agent by personal service or by certified mail, return receipt requested.
3. Every owner, occupant, or agent who has received notice of the intention of the Village to make repairs or take action shall give entry and free access to the Village, its agent, or an independent contractor for the purpose of making such repairs or remedial action.
4. Costs of repairs made or other remedial action taken at the direction of the Building Inspector shall constitute a special charge for current services pursuant to §66.60(16), Wis. Stats., with a penalty of 10 percent per annum on the unpaid amount starting on the 30th day provided above.

(c) **Petition for Hearing.** 1. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this section may request and shall be granted a hearing before the Village Board, provided that such person shall file a written petition with the Village Board requesting such hearing and setting forth a statement of the grounds thereof within 10 days of service of the notice.

2. Within 10 days of filing of such petition, the Village Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show cause why such notice should be modified or withdrawn. The hearing before the Village Board shall be commenced not later than 30 days after the date the petition was filed, provided that upon written application of the petitioner to the Village Board, the Board may postpone the date of the hearing for a reasonable time beyond such 30 day period if, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement. Between the date of filing the petition and the initial date of hearing and any adjournment granted by the Village Board, the Building Inspector shall not undertake any repairs or remedial action.
3. After such hearing, the Village Board shall sustain, modify or withdraw the notice, depending upon its finding as to whether or not the provisions of this section have been complied with and shall reduce its order to writing and copy mailed by certified mail to the petitioner.

4. The Village Board may modify any notice so as to authorize a variance from the provisions of this section when, because of special conditions, a literal enforcement of the provisions of this section will result in practical *difficulty* or unnecessary hardship; provided that the spirit of this section will be observed, safety and welfare secured, and substantial justice done. If the Village Board sustains or modifies such notice, it shall be deemed to be an order, and the owner, occupant or agent, as the case may require, shall comply with all provisions of such order within a reasonable period of time, as determined by said Village Board.

(8) CONFLICTING ORDINANCES. (Was §8.25.090) All ordinances or parts of ordinances conflicting with the provisions of this section are hereby to such extent repealed.

(9) PENALTY. (Was §8.25.080) Any owner, occupant or agent who failed to take remedial action within the date specified in the notice of the Building Inspector or who failed to obey the order of the Village Board shall be subject to a penalty as provided in Section 1.20 of the Brownsville Municipal Code. Such person shall be subject to additional prosecutions and convictions for each day upon the same notice or order, without the necessity of the Building Inspector issuing a new order, until such notice of order has been complied with. In addition to the above, action may be brought to abate a public nuisance.