

**CHAPTER 10**  
**PUBLIC NUISANCES**

(Created 12/16/81, Repealed & Recreated 1994)

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

10.02 PUBLIC NUISANCE DEFINED. A public nuisance is a thing, act, occupation, condition or use of property which continues for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety.
- (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, navigable body of water or other public way.

10.03 PUBLIC NUISANCES AFFECTING HEALTH. The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances; but such enumeration shall not be construed to exclude other health nuisances coming within the definition of §10.02:

(1) ADULTERATED FOOD. All decayed, adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) CARCASSES, UNBURIED. Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) INSECTS OR VERMIN, BREEDING PLACES FOR. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed.

(4) WATER, STAGNANT. All stagnant water in which mosquitoes, flies, or other insects can multiply.

(5) PRIVY VAULTS AND GARBAGE CANS. Privy vaults and garbage cans which are not fly-tight.

(6) WEEDS, NOXIOUS. See §66.96(2), Wis. Stats.

(7) POLLUTION, WATER. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(8) ODORS, NOXIOUS. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.

(9) POLLUTION, STREET. Any use of property which causes any noxious or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

(10) POLLUTION, AIR. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Village or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause substantial damage to property in the Village.

- (11) ANIMALS, LOOSE. Any animal running at large in the Village.
- (12) ABANDONED WELLS. All abandoned wells not securely covered or secured for public use.
- (13) OBSTRUCTION OF WATERCOURSE, ETC. Any obstruction in or across any watercourse, drainage ditch or swale.
- (14) DEPOSIT OF GARBAGE, REFUSE, ETC. The deposit of garbage, refuse or any offensive substance on any public or private property except as may be permitted by ordinance.
- (15) OUTDOOR WOOD-FIRED FURNACES. (Created 1-26-05) No person shall install, cause to install, use or maintain an outdoor wood-fired furnace within the Village of Bellevue.

10.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency; but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of §10.02:

- (1) DISORDERLY HOUSES. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (2) GAMBLING DEVICES. All gambling devices and slot machines.
- (3) UNLICENSED SALE OF LIQUOR AND BEER. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the Village.
- (4) CONTINUOUS VIOLATION OF VILLAGE ORDINANCES. Any place or premises within the Village where Village ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (5) ILLEGAL DRINKING. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of State laws.

10.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety; but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of §10.02:

- (1) DANGEROUS SIGNS, BILLBOARDS, ETC. All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (2) ILLEGAL BUILDINGS. All buildings erected, repaired or altered in violation of Village ordinances relating to materials and manner of construction of buildings and structures within the Village.
- (3) UNAUTHORIZED TRAFFIC SIGNS. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be, or may be mistaken as, official traffic control devices, railroad signs or signals or which, because of their color, location, brilliance or manner of operation, interfere with the effectiveness of any such device, sign or signal.

(4) OBSTRUCTION OF INTERSECTIONS. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) (Reserved) Revisor's Note: Section 10.05(5) related to Low Hanging Limbs was repealed on 05/13/09. Please refer to Chapter 8, Public Works, Section 8.24 Trees.

(6) (Reserved) Revisor's Note: Section 10.05(6) related to Dangerous Trees was repealed on 05/13/09. Please refer to Chapter 8, Public Works, Section 8.24 Trees.

(7) FIREWORKS. All use or display of fireworks except as provided by State Laws and Village ordinances.

(8) DILAPIDATED BUILDINGS. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(9) LOW HANGING WIRES AND CABLES. All wires and cables over streets, alleys or public grounds which are strung less than 15' above the surface thereof.

(10) NOISY ANIMALS OR FOWL. The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises, greatly annoys or disturbs a neighborhood or any considerable number of persons within the Village.

(11) OBSTRUCTIONS OF STREETS; EXCAVATIONS. All obstructions of streets, alleys, sidewalks or crosswalks, and all excavations in or under the same, except as permitted by the ordinances of the Village, but including those which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or which do not conform to the permit.

(12) UNLAWFUL ASSEMBLIES. Any unauthorized or prohibited use of property abutting on a public street, alley or sidewalk, or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(13) NOISES OR VIBRATIONS. All loud, discordant, and unnecessary noises or vibrations of any kind.

(14) OPEN AND UNGUARDED PITS, WELLS, ETC. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(15) ABANDONED REFRIGERATORS OR ICE BOXES. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which cannot be opened by pushing from the inside by a small child.

(16) REPEATED OR CONTINUOUS VIOLATIONS. Repeated or continuous violations of the ordinances of the Village or laws of the State relating to the storage of flammable liquids.

(17) STRUCTURE OR MATERIAL WHICH CONSTITUTES A FIRE HAZARD. Any structure, material or condition which constitutes a fire hazard or will impair the extinguishing of any fire.

(18) ICE REMOVAL. All ice not removed from the public sidewalks and all snow not removed from public sidewalks within 24 hours after it has ceased to fall thereon.

(19) ANY NUISANCE. Any nuisance so defined by the Wisconsin Statutes.

10.06 (Reserved) **Reviser's Note: Section 10.06 related to restrictions on burning was repealed in its entirety on 04/08/98. Restrictions on burning are found in Chapter 5, Fire Protection, §5.10.**

10.07 SMOKE. (1) **DENSE SMOKE**. The emission of dense smoke from the smokestack of any engine or from the smokestack or chimney of any building within the Village is hereby declared to be a public nuisance and is prohibited.

(2) **STATIONARY ENGINE**. The owner, lessee, or occupant of any building, or the fireman, engineer, or any other person having charge or control of any furnace or stationary engine who shall cause, permit or allow dense smoke to issue or to be emitted from the smokestack or chimney connected with any such furnace or stationary engine within the Village shall be guilty of creating a public nuisance and of violating the provisions of this section.

(3) **ALL SOOT PROHIBITED**. The emission of soot, cinders, or coal dust from any chimney, stack, furnace or from any building within the Village is hereby declared to be a public nuisance and is prohibited.

10.08 (Reserved) **Reviser's Note: Section 10.08 related to Dutch Elm Disease was repealed on 05/13/09. Please refer to Chapter 8, Public Works, Section 8.24 Trees.**

10.09 STORAGE OF JUNK. (1) The unsheltered accumulation or storage of old, unused, stripped, junked and other automobiles not in good and safe operating condition, any other vehicles, machinery, implements, equipment, any parts thereof, and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured is declared to be a nuisance and dangerous to the public health, safety and well-being.

(2) The owner, tenant, lessee and occupants of any lot upon which such accumulation or storage is made and the owner and lessee of the items involved in such storage, all referred to collectively as "owners", shall jointly and severally abate the nuisance by promptly moving such items into completely enclosed buildings authorized to be used for such storage purposes, if the same can be found within the Village, or otherwise by moving the items to a location outside the Village.

(3) Whenever the owners fail to abate the nuisance, the Village shall move such items to a location of its selection, and the expense therefor shall be billed to the owners, jointly and severally, which bill shall be recoverable through the tax roll. When such items have been removed and placed in storage by the Village, they shall be sold by the Village after the lapse of such time as is provided. If the proceeds of such sale are insufficient to pay the costs of abatement, the owners shall be jointly and severally liable to the Village for the balance of the costs to be recoverable in a suit of law. If the proceeds are in excess of costs, the balance shall be paid to the owners or deposited with the Village for their use.

10.10 SOUND AMPLIFIERS. The use of sound amplifiers outside buildings within the Village is prohibited without a permit from the Village. A sound amplifier shall not be operated after 11:00 p.m. or before 9:00 a.m. or in the vicinity of churches while services are being conducted, or near schools that are in session. The Village may order a reduction in the volume of an amplifier on complaint being made by a citizen or when such loudspeaker is a nuisance because of the volume, the method in which it is being used, at the location in which it is being operated.

10.11 LOT LINE NOISE REGULATION. (1) This section provides for noise limitations for emitting and receiving zones located in various zoning districts as established in the Village. No person shall operate or cause to be operated on private or public property any source of sound in such a manner as to create a sound level which exceeds any of the limits set for the zone categories in Table I (Amended 04/08/98).

TABLE I				
Maximum Permissible Sound Pressure (Levels in Decibels re .0002 Microbars)				
Octave Band Center Frequency (Hz)	Residential Into Residential	Commercial Into Commercial	Industrial Into Commercial	Industrial & Commercial Into Residential
31.5	72	79	79	72
63	71	78	78	71
125	65	72	73	65
250	57	64	67	57
500	51	58	61	51
1000	45	52	55	45
2000	39	46	50	39
4000	34	41	46	34
8000	32	39	43	32
A-scale levels	55 dB(A)	62 dB(A)	64 dB(A)	55 dB(A)

(2) DECIBEL LEVEL CORRECTIONS. (a) The levels cited above are daytime levels. Daytime shall refer to the hours between sunrise and sunset on any given day.

(b) When noise is present at night time, subtract (-5dB) from the levels in the table above.

(3) DEFINITIONS OF ZONE CATEGORIES (Amended 04/08/98). The following zones are included in the zone categories. These are defined:

(a) Residential: R1, R2, R-1-2a, RR and R3 Residence District Zoning Classifications, A1 and A2 Agriculture Zoning Classifications, and B-1 Business District Zoning Classification.

(b) Commercial: B2 and B3 Business District Zoning Classifications, and I-1 Institutional District Zoning Classification.

(c) Industrial: LI and HI Industrial District Zoning Classifications.

Regulation will be according to the underlying zones. Conservancy zones that are not publicly owned shall be regulated according to the adjacent zone. If the neighboring zones are different, they shall be extended to the center of the conservancy for the purposes of this section.

(4) MEASUREMENTS. The measurement shall be made at or beyond the property line of the property on which such noise is generated or at or within the property line of the property on which such noise is perceived, as inappropriate. Measurement shall be done at a minimum height of 4' above the ground.

The measurement of sound shall be made either with a sound level meter that meets or exceeds the ANSI requirements of the American Standard Specification for Sound Level Meters, Type I or Type II (ANSI §1.4 - 1971) or with an Octave Band Analyzer that meets or exceeds the requirements of ANSI (§1.6 - 1960) or any subsequent nationally adopted standards superseding the above standards. In both cases, the instruments should be maintained in calibration and good working order.

When a sound level meter is used, it shall be set to the A weighting scale and in the FAST response mode. A windscreen shall be mounted on the microphone and the noise limitations shall be the A scale levels set forth in Table I. An octave band analyzer may be employed when there is a concentration of sound energy within a limited number of bands, but its use shall not be restricted to such situations. When an octave band analyzer is used, a standard octave band analysis shall be conducted that spans the frequency range set forth in Table I.

(5) EXEMPTIONS (Amended 04/08/98). The provisions of this article shall not apply to:

(a) Non-stationary farming equipment.

(6) ANALYSIS. Where an octave band analysis is not done, an A-weighted sound level measurement of the noise shall be taken. When this method is used, the noise limitations shall be the A scale levels included in the Table.

10.12 AIR CONTAMINANTS. No operation or use shall cause, create, or allow air contaminants at the emission point or within the bounds at the property which exceeds federal or state air pollution regulations.

10.13 VIBRATIONS. The use of any property or portion thereof which is zoned in any Industrial District Zoning Classification causing earth shaking vibrations such as are created by uses including, but not limited to, drop forges and hydraulic surges, shall be controlled in such manner as to prevent transmission beyond the lot line of earthshaking vibrations perceptible without the aid of instruments.

10.14 (Reserved)

10.15 ABATEMENT OF PUBLIC NUISANCES. (1) **ENFORCEMENT**. The Village Administrator, Constable, Fire Chief, Zoning Administrator, Building Inspector, Director of Public Works and any other Village employee or officer charged with the duty to protect public health and safety or to maintain peace and order shall enforce those provisions of this chapter that come within the jurisdiction of their offices; and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No actions shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk (Amended 04/08/98).

(2) **SUMMARY ABATEMENT**. If the inspecting officer determines that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village Administrator may direct the proper officer to cause the same to be abated or to remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same 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.

(3) **ABATEMENT BY 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 inspecting officer shall cause the abatement or removal of such nuisance (Amended 04/08/98).

(4) **ABATEMENT AFTER NOTICE**. If the inspecting officer determines that a public nuisance exists on private premises but that such nuisance does not threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within ten (10) days, the proper officer shall cause the nuisance to be removed as provided in sub. (2).

(5) **OTHER METHODS NOT EXCLUDED**. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State.

(6) **COURT ORDER**. Except when necessary under sub. (2), an officer hereunder shall not use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

10.16 COST OF ABATEMENT. In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance; and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

10.17 PENALTY. Except as otherwise provided herein, any person who shall violate any provision of this chapter, or any regulation, rule or order made hereunder, or permit or cause a public nuisance, shall be subject to a penalty as provided in §25.04 of this Code of Ordinances.



10.18 CHRONIC NUISANCE PREMISES. (Created 4/8/09).

A. FINDINGS. The Village Board finds that any premises that has three (3) or more contacts with police, Fire Marshal or other Village Code Enforcement official for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the Village. The Village Board therefore directs its Officers, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.

B. DEFINITIONS. For the purposes of this section:

(1) "Officer" means any law enforcement officer, Fire Marshal, or other Code Enforcement Official duly authorized and assigned to enforce the laws of the State of Wisconsin and the ordinances of the Village of Bellevue or his/her designee.

(2) "Enforcement Action" means arrest, the issuance of a citation, or the issuance of a verbal or written warning.

(3) "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by premises owners, operators, occupants or persons associated with a premises:

(a) An act of harassment as defined in s. 947.013, Wis Stats.

(b) Disorderly conduct as defined in s. 947.01, Wis. Stats.

(c) Battery, substantial battery or aggravated battery as defined in s. 940.19, Wis. Stats.

(d) Lewd & Lascivious Behavior as defined in 944.20, Wis. Stats.

(e) Indecent exposure as defined in s. 944.20(1)(b), Wis. Stats.

(f) Keeping a place of prostitution as defined in s. 944.34, Wis. Stats.

(g) Prostitution as defined in s. 944.30, Wis. Stats.

(h) Theft as defined in s. 943.20, Wis. Stats.

(i) Receiving Stolen Property, as defined in s.943.34, Wis. Stats.

(j) Arson as defined in s. 943.02, Wis. Stats.

(k) Any violation of Uniform Controlled Substances Act, SS 961, Wis. Stats, Any violation of Pharmacy Examining Board (prescription drugs) SS 450, Wis. Stats.

(l) Gambling as defined in s. 945.02, Wis. Stats.

(m) Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to dwelling as defined in s. 943.14, Wis. Stats.

(n) Discharge of a firearm as defined in s. 9.01, Bellevue Municipal Code.

(o) The production or creation of loud and unnecessary noise as defined in s. 9.05, Bellevue Municipal Code.

- (p) Misuse of emergency telephone numbers as defined in s. 146.70, Wis. Stats.
  - (q) Any repeated violations of COM 7, explosives, 10 flammable liquid, 14 fire prevention, NFPA 14, and Bellevue Code of Ordinance Chapter 5., Chapter 9, Ordinance Chapter 10 and State Statute # 9, COM 60, 66 Commercial Building Code and COM 20, 25 uniform dwelling code
  - (r) Any conspiracy to commit, as defined in s. 939.31, Wis. Stats., or attempt to commit, as defined in s. 939.32, Wis Stats., any of the activities, behaviors or conduct enumerated in subds. (a) to (q) above.
  - (s) Resisting or Obstructing an Officer as defined s. 4.05, Bellevue Municipal Code.
  - (t) Any violation of Alcohol Offenses as defined in SS 125 Wis. Stats. Or s.12.03, Bellevue Municipal Code
  - (u) Any Violation of Abandoned, Unlicensed and Junked M/V as defined in s. 7.04, Bellevue Municipal Ordinance
  - (v) Any Violation of Disorderly Conduct w/ Motor Vehicle as defined in s. 7.08, Bellevue Municipal Ordinance.
  - (w) Any Violation of Peace and Order as defined in all of s. 9, as defined Bellevue Municipal Ordinance
  - (x) Any other violations pertaining to chronic nuisance property of s. 10, Bellevue Municipal Ordinance
  - (y) Any Violation of Keeping of Nuisance Animal as defined s.11.02, Bellevue Municipal Ordinance
  - (z) Any Violation of Collection of Solid Waste as defined s. 11.26, Bellevue Municipal Ordinance.
  - (aa) Any Violations Against Life and Bodily Security as defined SS. 940, WI State Statute
  - (bb) Any Violations Against Public Health and Safety as defined SS. 941, WI State Statute
- (4) "Owner" means the owner of the premises and his or her agents.
- (5) "Premises" means an individual dwelling, unit or multi-family or an individual business premises and associated common areas.
- (6) "Person associated with" means any person, who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, or waits to enter, patronize or visit, a premises or person present on a premises, including any officer, director, customer, agent, employee or independent contractor of a premises owner.

C. NOTICE. Whenever the “officer” determines that three or more nuisance activities resulting in contacts with the Village have occurred at a premises on separate days during a 12-month period, the “officer” shall notify the premises owner in writing. In reaching this determination, the “officer” shall not count nuisance activities reported by the owner of the premises when doing so to with the intent to stop the nuisance and in doing so shows a good faith effort to work with the Village. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner. This notice shall be deemed to be properly delivered if sent either by First Class Mail to the premises owner’s last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner’s usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice.

D. ABATEMENT PLAN (only for issues that are not an immediate danger to public health/safety). Any owner receiving notice pursuant to Sec 10.18 C. shall meet with the “officer” or his/her designee, within 5 days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the owner shall submit to the responsible Village official or his/her designee, an abatement plan to end the nuisance activity in the property. The plan shall specify a name, address and telephone number of a person living within 20 miles of the property in the event of further police action or inspection.

E. ADDITIONAL NUISANCE ACTIVITY. Whenever the “officer” determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Section 10.18 C., Bellevue Municipal Code, that this nuisance activity has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the “officer” may calculate the cost of police, fire or other Village response costs and enforcement costs for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge. Rates shall be determined as based in current Village Ordinance (Chapter 5) or for non-fire department rates; such prices approved by the Village of Bellevue Board of Trustees.

F. MORE RESTRICTIVE PROVISION SHALL PREVAIL. In any conflict between this ordinance and any other law, statute, regulation, code or ordinance, the more restrictive provision shall prevail.

G. FIRST OFFENSE. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit not less than \$250 nor more than \$1,000. Such fine shall be in addition to the individual fines issued per occurrence for each violation that contributes to the nuisance designation.

H. SUBSEQUENT OFFENSES. Any person who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within 12 months after committing a previous violation of this chapter shall forfeit not less than \$500 nor more than \$2,500. Such fine shall be in addition to the individual fines issued per occurrence for each violation that contributes to the nuisance designation.

10.19 ILLICIT DISCHARGE AND CONNECTION. (Created 1/27/10).

(1) GENERAL PURPOSE AND INTENT. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of The Village of Bellevue through the regulation of non-stormwater discharges to the MS4 to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

- (a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
  - (b) To prohibit illicit connections and discharges to the MS4.
  - (c) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.
- (2) **DEFINITIONS.** For the purposes of this ordinance, the following shall mean:
- (a) **Authorized Enforcement Agency.** Employees or designees of the Director of Public Works are hereby designated to enforce this ordinance.
  - (b) **Best Managements Practices (BMP's).** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
  - (c) **Contaminated Stormwater.** Stormwater that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216 (effective August 1, 2004).
  - (d) **Department (DNR).** The Wisconsin Department of Natural Resources.
  - (e) **Discharge.** As defined in Wisconsin Statute 283 (November 1, 2005), when used without qualification includes a discharge of any pollutant.
  - (f) **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
  - (g) **Illicit Discharge.** Any discharge to a municipal separate storm sewer system that is not composed entirely of stormwater except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.
  - (h) **Illicit Connections.** An illicit connection is defined as either of the following:
    - a. Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,
    - b. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
  - (i) **Industrial Activity.** Activities subject to WPDES Industrial Permits per NR 216 (effective August 1, 2004) and Wisconsin Statute 283 (November 1, 2005).
  - (j) **Municipality.** Any city, town, village, county, county utility district, town sanitary district,

town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, stormwater or other wastes.

(k) Municipal Separate Storm Sewer System (MS4). As defined in Wisconsin Administrative Code NR 216 (effective August 1, 2004), means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

- a. Owned or operated by a municipality.
- b. Designed or used for collecting or conveying stormwater.
- c. Is not a combined sewer conveying both sanitary and stormwater.
- d. Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

(l) Non-Stormwater Discharge. Any discharge to the MS4 that is not composed entirely of stormwater.

(m) Owner. Any person holding fee title, an easement or other interest in property. An individual, Any owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

(n) Pollutant. As defined in Wisconsin Statute 283 (November 1, 2005), means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

(o) Pollution. As defined in Wisconsin Statute 283 (November 1, 2005), means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(p) Pollution prevention. Taking measures to eliminate or reduce pollution.

(q) Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

(r) Stormwater. Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

(s) Stormwater Management Plan/ Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

(t) Village. The Village of Bellevue.

(u) Wastewater. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(v) Watercourse. A natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils

maps in the NRCS soils book for Brown County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

(w) Waters of the state. As defined in Wisconsin Statute 283 (November 1, 2005), means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

(x) Wisconsin Pollutant Discharge Elimination System (WPDES) Stormwater Discharge Permit. A Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute 283 (November 1, 2005)

(3) **APPLICABILITY.** This ordinance shall apply to all water entering the MS4 generated on any lands unless explicitly exempted by an authorized enforcement agency.

(4) **RESPONSIBILITY FOR ADMINISTRATION.** The Village and/or its agents shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Village may be delegated in writing by the Village Board to persons or entities acting in the beneficial interest of or as an employ of the Village of Bellevue.

(5) **COMPATIBILITY WITH OTHER REGULATIONS.** This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

(6) **SEVERABILITY.** The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

(7) **ULTIMATE RESPONSIBILITY.** The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

(8) **DISCHARGE PROHIBITIONS.**

(a) Prohibition of Illicit Discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than stormwater.

(b) Allowed Discharges.

a. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool/hottub discharges, and street wash water.

b. Discharges or flow from firefighting, and other discharges specified in writing by the Village as being necessary to protect public health and safety.

c. Any non-stormwater discharge permitted under a WPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources. Any person subject to such a WPDES stormwater discharge permit shall comply with all provisions of such permit.

(c) Prohibition of Illicit Connections.

a. The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

b. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

c. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

d. Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Village.

e. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Village requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Village.

(9) **WATERCOURSE PROTECTION.** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property be free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(10) **COMPLIANCE MONITORING.**

(a) Right of Entry: Inspecting and Sampling. The Village shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

a. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Village.

b. Facility operators shall allow the Village ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

c. The Village shall have the right to set up on any facility such devices as are

necessary in the opinion of the Village of Bellevue to conduct monitoring and/or sampling of the facility's stormwater discharge.

d. The Village has the right to require the discharger to install monitoring equipment in order to maintain compliance with this ordinance. If required by the Village, the facility's sampling and monitoring equipment shall be installed and maintained at all times in a safe and proper operating condition by the discharger at its own expense. The Village shall make every reasonable effort to make sure the installation and operation of the equipment does not interfere with business operations. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

e. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Village and shall not be replaced. The costs of clearing such access shall be borne by the operator.

f. Unreasonable delay in allowing the Village access to a facility is a violation. A person who is the operator of a facility commits an offense if the person denies the Village reasonable access to the facility for the purpose of conducting any activity authorized or required by this ordinance.

(b) Special Inspection Warrant. If the Village has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Village may seek issuance of a special inspection warrant per state statute 66.0119.

(11) REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES. The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the MS4, or waters of the State shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal MS4 or watercourses through the use of these structural and non-structural BMP's. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMP's to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMP's shall be part of a Stormwater Management Plan (SWMP)/Stormwater Pollution Prevention Plan (SWPPP) as necessary for compliance.

(12) NOTIFICATION OF SPILLS. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the MS4, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Village in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Village within 2 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent



its recurrence. Such records shall be retained for at least 5 years. Failure to provide notification of a release as provided above is a violation of this ordinance

(13) VIOLATIONS, ENFORCEMENT AND PENALTIES

(a) Violations. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the Village is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The Village is authorized to seek costs of the abatement as outlined in Section 16.

(b) Warning Notice. When the Village finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Village may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the Village to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

(c) Notice of Violation. Whenever the Village finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Village may order compliance by written notice of violation to the responsible person. The Notice of Violation shall contain:

- a. The name and address of the alleged violator;
- b. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- c. The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- d. A statement specifying the nature of the violation;
- e. A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- f. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- g. A statement that the determination of violation may be appealed to the Village by filing a written notice of appeal within 3 days of service of notice of violation; and a statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator. Such notice may require without limitation:
  - i. The performance of monitoring, analyses, and reporting;
  - ii. The elimination of illicit connections or discharges;
  - iii. That violating discharges, practices, or operations shall cease and desist;

- iv. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- v. Payment of a fine to cover administrative and remediation costs; and;
- vi. The implementation of BMP's.

(14) SUSPENSION OF MS4 ACCESS

(a) Emergency Cease and Desist Orders. When the Village finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Village may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- a. Immediately comply with all ordinance requirements; and
- b. Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge. Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Village may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Village may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Village that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Village within 3 days of receipt of the prerequisite for, taking any other action against the violator.

(b) Suspension due to Illicit Discharges in Emergency Situations. The Village may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the Village may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

(c) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village will notify a violator of the proposed termination of its MS4 access. The violator may petition the Village for a reconsideration and hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Village.

(d) Prosecution and Penalties. Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by the Village, after the Village has taken

one or more of the actions described above, the Village may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation.

(15) **APPEAL OF NOTICE OF VIOLATION.** Any person receiving a Notice of Violation may appeal the determination of the Village. The notice of appeal must be received by the Village within 3 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 30 days from the date of receipt of the notice of appeal.

(16) **ENFORCEMENT MEASURES AFTER APPEAL.** If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, the municipal authority upheld the decision of the Village, then representatives of the Village are authorized to enter upon the subject private property and authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(17) **COST OF ABATEMENT OF THE VIOLATION.** Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.

(18) **VIOLATIONS DEEMED A PUBLIC NUISANCE.** Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

(19) **REMEDIES NOT EXCLUSIVE.** The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Village to seek cumulative remedies. The Village may recover all attorney fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.