

**VILLAGE OF VARNA
MARSHALL COUNTY, ILLINOIS**

ORDINANCE NO. 281

AN ORDINANCE REGARDING THE DEFINITION, REGULATION AND ABATEMENT OF NUISANCES

Recitals

- A. The Corporate Authorities of the Village of Varna (the "Village") pursuant to Section 11-60-2 of the Illinois Municipal Code, 65 ILCS 5/11-60-2, have the authority to define, prevent and abate public nuisances.
- B. The Village's Corporate Authorities pursuant to Section 11-20-13 of the Illinois Municipal Code, 65 ILCS 5/11-20-13, have the authority to provide for the removal of garbage, debris, and graffiti from any parcel of private property within the municipality if the owner of that parcel, after reasonable notice, refuses or neglects to remove the garbage, debris, and graffiti and the Village may collect, from the owner of the parcel, the reasonable removal cost.
- C. The Village's Corporate Authorities have determined the provisions of Ordinance 231 (abatement of nuisances) no longer serve the needs of the Village and deem it necessary to enact a new ordinance to address nuisances within the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF VARNA, MARSHALL COUNTY, ILLINOIS AS FOLLOWS HEREIN.

Section 1: Recitals. The facts and statements contained in the Recitals are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2: Nuisances Declared Unlawful. It shall be unlawful and a violation of this Ordinance, for any person to willfully or negligently create, erect, maintain or permit a nuisance to exist anywhere within the Village.

Section 3. Nuisances Defined.

(A). Generally. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Greatly offend the public morals or decency; or

- (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.

This Ordinance shall apply to any nuisance declared by statute, common law or another ordinance of the Village as if such nuisance were enumerated specifically herein. Nuisances enumerated in this ordinance shall not be deemed exclusive but are in addition to and to be construed in conjunction with any other nuisances enumerated in statutes or additional ordinances of the Village.

(B) Public Nuisances Affecting Health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other nuisances coming within the definition of Subsection (A) of this Section.

- (1) All decaying, harmfully adulterated or unwholesome food or drinks sold or offered for sale to the public;
- (2) Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
- (3) Accumulation of decaying animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, abandoned machinery, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed; or which may constitute a fire hazard;
- (4) To cause or permit to be collected or remain upon any premises or place, any animal carcass or any offal, filth, excretion or other noisome or noxious animal matter of any kind which is or likely to become putrid, foul or offensive or act as an attractant to predators or carrion feeders;
- (5) To throw or deposit any animal carcass, offal, or other offensive matter into any well, sewer, drainage tile, street, public right-of-way, or public property or to corrupt or render unwholesome or impure the water of any source to the injury or prejudice of others;
- (6) To keep or maintain any animals in any unclean or filthy manner or surroundings or to keep or maintain any animals that emit or produce any particularly foul or offensive odors;
- (7) All stagnate water in which mosquitoes, flies or other insects can multiply or that that attracts vermin, rodents, raccoons, skunks, coyotes or other undesirable animals;
- (8) The escape of smoke, soot, cinders, noxious acids, fumes, gasses, fly ash or industrial dust within the Village limits in such quantities as to endanger the health of persons of ordinary sensibilities or threaten or cause a substantial injury to property;
- (9) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, industrial waste or other substances;
- (10) Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or

stenches extremely repulsive to the physical senses of ordinary persons which annoy, cause discomfort, injure or inconvenience the health of persons within the Village;

- (11) All abandoned wells not securely covered or secured from use;
- (12) Any obstruction in or across any water course, drainage ditch or ravine;
- (13) Any open burning contrary to the regulations of the Illinois Pollution Control Board or other Village ordinances or codes;
- (14) The deposit of garbage, rubbish, debris, junk or wrecked motor vehicles or parts of same, or any offensive substance on any street, sidewalk, public right-of-way, or public place, or on any private property, except as may be permitted by ordinance;
- (15) Any noxious weeds on private property as defined by the Illinois Compiled Statutes; or
- (16) To use, deposit or allow to collect on any property manure or similar substance used for fertilizer or other uses that cause a material annoyance, inconvenience, or discomfort to persons residing in the proximity thereof.

(C) Public Nuisances Offending Morals and Decency. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumerations shall not be construed to exclude other nuisances coming within the definition of Subsection (A) of this Section.

- (1) All disorderly houses, houses of ill fame, gambling houses and building or structures kept or resorted to for the purpose of prostitution or gambling. Activity lawfully conducted under the Video Gaming Act, 230 ILCS 40/1 *et seq.*, is not prohibited.
- (2) 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 by Village ordinance.

(D) Public Nuisances Affecting Peace and Safety. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumerations shall not be construed to exclude other nuisances coming within the definition of Subsection (A) of this Section.

- (1) All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of buildings and structures;
- (2) All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossings;
- (3) 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;

- (4) All limbs of trees which project over a public sidewalk less than eight feet above the surface thereof or less than ten feet above the surface of a public street;
- (5) All use or display of fireworks except as provided by the laws of the State of Illinois and ordinances of the Village;
- (6) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
- (7) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;
- (8) All loud and discordant noises or vibrations of any kind that unreasonably interferes or disrupts the enjoyment of life of residents or business activities in the Village; allowing or producing loud raucous sounds or amplified noise is prohibited especially during "quiet times" known as 10:00 p.m. through 8:00 a.m.;
- (9) 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 or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished;
- (10) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;
- (11) All abandoned refrigerators, freezers, ice boxes, washing machines, dryers, dishwashers or similar appliances;
- (12) Any advertisements or signs affixed to any building, wall, fence, sidewalk, street or other private or public property without permission of the owner thereof;
- (13) Any sign, marquee or awning which is in an unsafe condition, or which overhangs any roadway or which overhangs any sidewalk with less than eight feet above the sidewalk surface;
- (14) Any condition or practice constituting a fire hazard; or
- (15) Any nuisance so defined by the Illinois Compiled Statutes.

(E) Garbage, Rubbish, and Debris. The following acts, omissions, places, conditions and things are hereby declared to be nuisances, but such enumerations shall not be construed to exclude other nuisances coming within the definition of Subsection (A) of this Section.

- (1) The storage of litter, refuse, or rubbish on or about any premises. This shall not prohibit the storage of litter in receptacles for collection. Any owner or person in control of property shall keep the sidewalk in front of their property free of litter, refuse, or rubbish.
- (2) The storage or placement outside of a closed building any litter; junk; machinery or equipment, or parts thereof, not in operable condition; furniture designed for indoor use; scrap metal; or excess building supplies. The Village prohibits the operation of junk yards, scrap yards or recycling centers in its limits and the outdoor storage and collection of such salvaged materials which is not in compliance with an applicable Village ordinance.

The following definitions shall apply to this Ordinance:

- (a) "Garbage" means putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.
- (b) "Litter" means garbage, refuse or rubbish and all other waste material that is thrown or deposited as prohibited by this subsection.
- (c) "Refuse" means all putrescible and nonputrescible solid wastes, except body waste, including garbage, rubbish, ashes, street leanings and solid market and industrial waste.
- (d) "Rubbish" means nonputrescible solid wastes such as paper, wrappings, cardboard, cigarettes, tin cans, yard clippings, wood, glass, construction debris, bedding, crockery and similar materials.

(F) Signs, Displays and Graffiti. No person shall display signs or apply graffiti which includes any unauthorized inscription, word, figure, or design that is marked, drawn, painted or otherwise applied to any structural component of any building, facility or surface of public or private property.

Section 4: Recurring Offense. A separate offense of this Ordinance shall be deemed committed on each and every day during or on which a violation occurs or is permitted to continue.

Section 5: Abatement.

(A) Inspection of Premises. Whenever a complaint is made to Village officials, including, but not limited to, police, fire, health or building officers or inspectors, that a nuisance exists within the Village, the appropriate Village official shall inspect or cause to be inspected the premises.

(B) Notice to Abate; Summary Abatement.

- (1) Notice to Abate. If an appropriate Village official determines a nuisance exists on private property, the official or his/her designee shall give the owner or occupant of the premises on which the nuisance exists or the individual responsible for the nuisance a written notice directing the recipient to abate or remove such notice within seventy-two (72) hours or other specified time period based upon the urgency of the situation and the nature of the nuisance.
- (2) Abatement by Village. If the nuisance is not abated within the time provided or if the owner or occupant or person causing the nuisance cannot be located, the appropriate Village official or his/her designee may cause the abatement or removal of such public nuisance at the cost of such removal or abatement to the owner or occupant or such person causing the nuisance.
- (3) Abatement by Court Action. If the Village official shall determine that a nuisance exists on private premises but the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the Village official shall cause an action to abate such nuisance to be

filed in the Circuit Court of the Tenth Judicial Circuit in Marshall County or other appropriate venue.

- (4) **Emergency Abatement.** When a nuisance exists and the nuisance causes or threatens imminent danger or great peril to persons or property, the nuisance may be immediately abated by the Village, by using the following procedure:
- (a) The Village President shall find that the nuisance exists, and that the nuisance causes or threatens imminent danger or great peril to persons or property, and that an emergency exists and a copy of the Village President's findings shall be placed on file in the office of the Village Clerk.
 - (b) The Village Clerk shall immediately issue a notice directed to the owner or occupant of the premises on which the nuisance exists, directing the owner or occupant to immediately abate the nuisance. The notice shall be served upon the owner or occupant of the premises upon which the nuisance exists. The notice may be served by any officer, employee, or agent of the Village. In the event that the owner or occupant of the premises is not to be found, the notice may be posted on the premises on which the nuisance exists.
 - (c) Upon being served with a notice to abate a nuisance as provided in this subsection, the owner or occupant of the premises on which the nuisance is located shall immediately abate the nuisance. The failure of the owner or occupant to immediately abate the nuisance upon service or posting of the notice shall be a violation of this Ordinance.
 - (d) If the owner or occupant of a premises upon which a nuisance is ordered to be abated under this subsection does not immediately abate the nuisance, the Village shall immediately abate the nuisance. The cost of the abatement by the Village shall be assessed against the property on which the nuisance existed.

Section 6: Cost of Abatement. In addition to the penalty imposed by this Ordinance for the election, contrivance, creation, continuance or maintenance of a 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.

Section 7: Lien for Removal Costs. If the Village incurs abatement or removal costs under this Ordinance, then a lien for any unpaid costs may be imposed upon the subject parcel in the manner prescribed by Section 11-20-15 or Section 11-20-15.1 of the Illinois Municipal Code, 65 ILCS 5/11-20-15 & 15.1, as may be amended from time to time and shall be subject to foreclosure in accordance with Section 11-20-15 or Section 11-20-15.1 of the Illinois Municipal Code.

Section 8: Penalty. Any person convicted of violating any provision of this Ordinance shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00).

Section 9: Effect on Pre-existing Matters. This Ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this Ordinance and does not waive any fee or penalty due and unpaid on the effective date of this Ordinance.

Section 10: Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 11: Repealer. All ordinances, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

Section 12: Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

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PASSED at a regular meeting of the Board of Trustee of the Village of Varna, Illinois on June 3, 2024, by roll call vote as follows:

Record of the Vote	Yes	No	Abstain	Absent
Chambers	✓			
Koch	✓			
Marliere	✓			
Meierkord	✓			
Todd	✓			

APPROVED on June 3, 2024

Louis Holocker
Louis Holocker, Village President

ATTEST

Jane Egli
Jane Egli, Village Clerk

PUBLISHED in pamphlet form on June 4, 2024

Jane Egli
Jane Egli, Village Clerk

STATE OF ILLINOIS)

) SS

CERTIFICATE OF MUNICIPAL CLERK

COUNTY OF MARSHALL)

I, the undersigned, certify that I am duly qualified and acting Clerk of the Village of Varna, the County and State foresaid, and, as such Clerk, I am the keeper of the records and files of the Corporate Authorities of the Village of the Village. I do further certify that the attached and foregoing is a true and correct copy of Ordinance No. 281; An Ordinance Regarding the Definition, Regulation and Abatement of Nuisances as passed by the Village Board of Trustee at its regular meeting held on June 3, 2024, and as approved by the Village President on June 3, 2024.

IN WITNESS WHEREOF I have hereunto affixed my official signature and the corporate seal of the Village of Varna, Illinois.

Jane Egli
Jane Egli, Village Clerk

(SEAL)

