

Village of Birnamwood
Public Nuisance Ordinance for Weed Control and Lawn Care

(1) **PURPOSE.** This ordinance is adopted due to the unique nature of the problems associated with lawns, grasses, noxious weeds being allowed to grow to excessive length in the village. This ordinance is also adopted due to the unique nature of the accumulation of junk displayed in the village.

(2) **PUBLIC NUISANCE DEFINED.** Maintaining a public nuisance by act, or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.

(3) **NOXIOUS WEEDS AND RANK GROWTH PROHIBITED.** No owner or occupant of any lot or parcel (vacant or occupied) shall allow such property to become overgrown with any weeds or grass over 9 inches in height so as to constitute a public nuisance, as defined in subsection (2) of this section.

(4) **ACCUMULATION OF JUNK PROHIBITED.** No owner or occupant of any lot or parcel (vacant or occupied) shall allow such property to accumulate junk. "Junk" means; scrap metal, metal alloy, wood, concrete, or synthetic material, structure, equipment, furniture, appliances, machinery, or any part thereof. "Junk" includes refuse, used tires, parts of dismantled buildings, agricultural equipment not in useable condition, parts of agricultural use equipment and contaminated recyclable material, as to constitute a public nuisance, as defined in subsection (2) of this section.

(5) **INSPECTION.** The village engineer or his/her designee shall inspect or cause to be inspected all premises and places within the village to determine whether any public nuisance as defined in subsection (2) of this section exists.

(6) **ABATEMENT OF NUISANCE.** If the village engineer shall determine with reasonable certainty that any public nuisance as defined in subsection (2) of this section exists, he/she shall immediately cause written notice to be served that the occupant or owner has 10 days to cut such grass or weeds, or 30 days to remove such junk, after service of notice. If the property owner does not abate the nuisance the Village board shall take action to abate such public nuisance.

(7) **COSTS.** If the village causes a nuisance to be removed the cost will be the following:

- A minimum charge of \$25.00.
- For village personnel doing the work,
 - Labor rate charge will be \$40.00 per hour, charged in 15 minute intervals.
 - Equipment and fuel charge will be \$20.00 per hour charged in 15 minute intervals.
- If an outside commercial firm is hired to do the required lawn care or junk removal, the cost of the outside firm plus 10% will be charged to the property owner.

The charges shall be set forth in a statement to the clerk who, in turn, shall mail the statement to the owner, occupant or person in charge of the subject premises. If the statement is not paid in full within 30 days thereafter, the clerk shall enter the charges in the tax roll as a special tax against the lot of parcel of land, and the charges shall be collected in all respects like other taxes upon real estate or as provided under Wis. Stats. §66.0627.

(8) **DUE PROCESS HEARING.** If the owner believes that his/her grasses, weeds, or junk are not a nuisance, he/she may request a hearing before the Village Board. The request for the hearing must be made in writing to the clerk's office within the five days set forth in the village engineer's notice. Upon application for the hearing, the property owner must deposit a bond of

\$25.00. If a decision is rendered in the property owner's favor, the bond will be returned to the property owner. If the property owner fails to appear for the hearing or if the decision is rendered against the property owner, the deposit shall be forfeited and applied to the cost of village personnel abating the nuisance, if necessary. When a hearing is requested by the owner it will be at the next scheduled meeting of the village board. The property in question will not be mowed or junk removed until such time as the hearing is held by the Board. At the hearing, the owner may appear in person or by his/her attorney, may present witnesses in his/her own behalf and may cross examine witnesses presented by the village as well as subpoena witnesses for his/her own case. At the closure of the hearing, the Board shall make its determination in writing specifying its findings, facts and conclusions. If the board determines a public nuisance did exist, the Board shall order the village engineer to mow or remove junk from the property in question unless the property has been mowed or junk removed by owner within 48 hours of the Board's decision. If the owner does not abate the nuisance within the described 48 hours, the village engineer shall cause the nuisance to be abated and costs in excess of the forfeited fee assessed accordingly.

(9) VARIANCE. An owner of a parcel of more than three acres may apply to the Village for a variance from this section to allow for agricultural use. All adjoining property owners must be given prior written notice of the variance hearing at least 14 days in advance of this hearing. The Board shall review and decide upon such variance requests. Any variance granted under this subsection shall be valid for a three-year term only.