

STATE OF WISCONSIN

VILLAGE OF ELM GROVE

WAUKESHA COUNTY

**AN ORDINANCE CREATING CHAPTER 208 ARTICLE III
PEACE AND GOOD ORDER
OF THE VILLAGE OF ELM GROVE CODE OF ORDINANCES
REGULATING CHRONIC NUISANCE PROPERTIES**

THE VILLAGE BOARD OF THE VILLAGE OF ELM GROVE DO ORDAIN AS FOLLOWS:

SECTION 1: Chapter 208, Article III of the ELM GROVE Municipal Code of Ordinances is hereby created to read as follows:

Article III Chronic nuisance property.

208-12 Findings

The Village Board finds that any residential property that has generated three (3) or more calls for police service for nuisance activities in one month, or six (6) or more calls in one calendar year a period of twelve months, 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 further finds that residential property owners are in a better position than commercial property owners to control who enters their property and to control the activities which take place thereon, as opposed to commercial property owners, which often hold their properties open to the public. The Village Board further finds that as a matter of policy it does not want to discourage commercial property owners from reporting offenses committed against them.

The Village Board therefore directs the chief of police and the Village Clerk, as provided in this section, to charge the owners of such property the costs associated with providing police and administrative services for purposes of abating the violations at property where nuisance activities occur.

208-13 Definitions. For the purposes of this section:

- A. "Chronic nuisance property" means any residentially zoned or residentially used parcel of land or structure, which has generated three (3) or more calls for police service for nuisance activities on separate days in one month, or six (6) or more calls in one calendar year a twelve-month period.
- B. "Nuisance activity" means any of the following activities, behaviors, or conduct whenever engaged in by Property owners, operators, tenants, occupants, or persons associated with a Property:
1. An act of harassment as defined in Wis. § 947.013.
 2. Disorderly conduct as defined in Article I 208-10 and Wis. §947.01
 3. Battery, substantial battery or aggravated battery as defined in Wis. §940.19.
 4. Indecent conduct as defined in Wis. §944.20(1).
 5. Prostitution or keeping a place of prostitution, or leasing a building for the purposes of prostitution as defined in Wis. §944.30 and §944.34.
 6. Theft as defined in Wis. § 943.20.
 7. Arson as defined in Wis. §943.02.
 8. Possession, manufacture or delivery of a controlled substance or related offenses as defined in Wis. § 961.
 9. Gambling or other offenses as defined in Village of Elm Grove Code section 171-10 and Wis. §945.02.
 10. Trespass as to building and land as defined in Wis. § 943.13 or criminal trespass to dwelling as defined in Wis. §943.14.
 11. Discharge of a firearm as defined in Village of Elm Grove Code Section 147-1.
 12. The production or creation of unnecessary noise and disturbances as defined in Article I

- 208-4.
13. Loitering or Loafing as defined in Village of Elm Grove Code sections 190-1, Article I 208-2 and 208-7.
 14. Intoxicating Liquor and Fermented Malt Beverage violations as defined in Village of Elm Grove Code section 171.
 15. Owning, keeping, having or harboring any bird or animal that causes a disturbance of the peace as defined in Village of Elm Grove Code section 95-6.
 16. Selling or giving away tobacco products to persons under the age of 18 as defined in Wis. § 134.66.
 17. Illegal sale, discharge and use of fireworks as defined in Village of Elm Grove Code section 153.
 18. Misuse of emergency telephone numbers as defined in Village of Elm Grove Code section 66-11.
 19. Removal of snow and ice as defined in Village of Elm Grove Code section 243-15.
 20. Zoning violations as defined in Village of Elm Grove Code section 335
 21. Any other offense against peace and good order as defined in Chapter 208.

C.. Exception: Any offenses that may be listed under sub. B which are determined to be a domestic violence event as described under Wis. § 968.075 shall not be considered a nuisance activity for purposes of this section.

D.. “Person associated with” means any person who, whenever engaged in a nuisance activity, enters, patronizes, visits or attempts to enter, patronize or visit, a property including any officer, director, customer, agent, employee or independent contractor of a property owner, tenant, or occupant.

E.. “Property” means any residentially zoned or residentially used parcel of land or structure.

F.. “Verifiable event” means an event that is initially observed by a police officer, or a call for service that is reported to the police department by a known person who is identifiable to support the event, or a call for service that is reported to the police department by an unknown person if the event is substantiated by a police officer, or a witness; and the call for service was made.

208-14 Chronic nuisance property prohibited.

It shall be unlawful for any property owner, operator, tenant, occupant, or person associated with a Property to allow the establishment of, keep, or maintain a chronic nuisance property.

208-15 Procedure.

A. Whenever the chief of police determines that two (2) nuisance activities have occurred at a Property on separate days during any calendar year twelve-month period, the chief of police may notify the property owner that the property is in danger of becoming a chronic nuisance property.

B. Whenever the chief of police determines that three (3) nuisance activities have occurred at a Property on separate days during any calendar month, or six (6) nuisance activities have occurred at a Property during a calendar year twelve-month period, and said nuisance activities are verifiable events, the chief of police shall notify the property owner in writing that the Property is a chronic nuisance property and any further violations within said month or calendar year twelve-month period will be cause for levying a special charge against the property pursuant to this Section.

C. The notice described in sub. B shall be deemed to be properly delivered if sent either by first class mail to the property owner's last known address or if delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the property 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. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail

to the last known address of the owner as identified by the records of the tax roll.

The notice shall contain:

1. The street address or legal description sufficient for identification of the Property.
2. A description of the nuisance activities that have occurred at the Property and a statement indicating that the cost of future enforcement or abatement will be assessed as a special charge against the Property.
3. A statement that the property owner shall within ten (10) days respond to the chief of police to propose a written course of action to abate the nuisance activities which is acceptable to the chief.

208-16 Violation and enforcement.

- A. Each nuisance activity which is a verifiable event following issuance of the notice provided pursuant to ~~§ 208-15(B) sub-(d)(2)~~ and occurring within the month ~~or calendar year~~ or twelve-month period in which said notice is provided, shall constitute a separate violation of this Section.
- B. Cost Recovery. Upon notification from the chief of police that a chronic nuisance property has been identified, the Village Clerk shall charge any property owner found to be in violation of this Section the costs of ~~enforcement police service to the Property and associated with~~ abatement, including administrative costs, in full or in part. Such costs shall be imposed as a special charge pursuant to § 66.0627, Wis. Stats. Such costs shall be due in full within 30 days. ~~All Pursuant to § 66.0627, Wis. Stats, all~~ costs so charged and not paid when due are a lien upon such Property and may be assessed and collected as a special charge on the next property tax bill if not paid within the 30 day period. Interest at one percent per month shall be assessed on any unpaid balance. The Village shall establish a reasonable charge for the costs of administration and enforcement imposed hereunder.

208-17 Appeal.

Any person aggrieved by the determination of the chief of police issued pursuant to 208-15 (A) or (B) or the levying of any special charges pursuant to this Section is able to appeal solely to the Board of Trustees. Any appeal to the Board of Trustees under this Chapter shall be made within ten (10) business days of the date that the chief of police issued the decision being appealed from to the Village Clerk. The Board shall consider the matter at the next available regular Board of Trustees meeting. Based upon testimony provided by both the applicant and the chief of police, and after consideration of the health, safety and welfare of the Village, the Board may affirm, reverse, or modify the police chief's initial decision.

SECTION 2: If any section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of such ordinance.

SECTION 3: This ordinance shall take effect and be in full force from and after its passage.

VILLAGE OF ELM GROVE

Passed and approved this 22nd day of April 2008

Neil H. Palmer, Village President

Mary S. Stredni, Village Clerk