

VILLAGE OF BISMARCK

ORDINANCE NO. 2002-2

AN ORDINANCE FOR THE PROTECTION OF THE HEALTH
AND SAFETY AND PROMOTION OF THE GENERAL WELFARE
OF THE PUBLIC WITHIN THE VILLAGE OF BISMARCK

WHEREAS, the corporate officials of the Village of Bismarck have determined it reasonable and necessary to establish certain regulations to protect the health and safety and promote the general welfare of the public within the Village of Bismarck;

NOW THEREFORE, be it ordained by the President and Board of Trustees of the Village of Bismarck, Vermilion County, Illinois, as follows:

SECTION 1: Regulation and Control of Nuisances.

1.1: Purpose: The purpose of this section is to protect and promote the health, safety and property of the public by the regulation and control of nuisances within the boundaries of the Village.

1.2: Definitions: For the purposes of this Section, the following terms are defined:

- A. Animal: Cattle, swine, horses, mules, donkeys, goats, sheep, deer, dogs, cats, rabbits and other such four footed creatures; chickens, turkeys, geese, pigeons, doves, ducks or other fowl; snakes, lizards, turtles and other reptiles; and fish.
- B. Derelict Vehicle: Any type of motorized conveyance which is abandoned by its owner, not currently licensed for operation or is not in an operable condition.
- C. Dwelling: Any house, building, structure, tent, shelter, trailer or vehicle, or portion thereof, except a railroad car on tracks or right of way, which is occupied in whole or part as the home, residence, living or sleeping place of one or more human beings, either permanently or transiently.
- D. Garbage: Decaying animal and vegetable wastes resulting from the handling, preparation and consumption of foods.
- E. Health Administrator: The Village President or any other official or employee designated by the corporate authorities of the Village.
- F. Litter: Any material or substance, including but not limited to, newspapers, magazines, metal, plastic or paper containers or other packaging material, household items, oil or anything else of an unsanitary or toxic nature, which has been improperly discarded, abandoned or otherwise disposed of.

- G. Nuisance: Any condition which may be offensive and/or detrimental to a person or his/her property or which may constitute a hazard to the health and safety of any person.
- H. Offal: The waste or inedible portion of any butchered animal.
- I. Person: Any individual, group of individuals, association, trust, partnership, cooperative, person doing business under an assumed name, the State of Illinois or any department thereof, or any other public entity.
- J. Rodent Harborage: Any condition which provides shelter or protection for rodents, thus favoring their multiplication and continued existence.
- K. Rubbish: Both combustible and noncombustible material such as paper, cardboard, plastic, glass, crockery, metals and similar materials.

1.3: Nuisances Enumerated: The following, except when in conjunction with standard farming practices, are hereby declared nuisances:

- A. Deposit or Accumulation of Offensive Substances:
 - 1. To cause or allow any offal, animal feces, rubbish, sewage, garbage, rubble, filthy or putrid substance or any other offensive or annoying substance to be collected, deposited or to remain in any place, public or private, except that these materials may be disposed of in any location approved by the Illinois Environmental Protection Agency or the Health Administrator of the Village.
 - 2. To throw, deposit, or discharge any offal, animal feces, garbage, rubbish, litter or any other offensive matter or the carcass of any animal in any water course, intermittent waterway, ditch, lake, pond, spring, well, street, or public highway drainage system or ditch.
- B. Burning Garbage and Rubbish: Burning garbage and rubbish is prohibited, except as hereafter provided. Clean paper from newspapers and advertisements and other such circulars; letters and advertisements and other such correspondence; and personal financial and related documents and records may be burned by a contained and attended fire. (Recyclable materials may be deposited in recycling bins. All other garbage and rubbish shall be directed to the landfill.) Burning shall be completed between dawn and dusk, when atmospheric conditions will readily dissipate contaminants.
- C. Burning Landscape Waste: Burning landscape waste is prohibited, except the open burning of landscape waste is permitted on the premises on which such waste is generated. Burning shall be completed between dawn and dusk, when atmospheric conditions will readily dissipate contaminants.

- D. Smoke and Particulate Matter: Dense smoke, noxious or annoying fumes and odors, vapors, gas, dust, soot, cinders or other airborne particles in unreasonable toxic quantities as set forth by the Illinois Environmental Protection Agency. Burning shall be completed between dawn and dusk, when atmospheric conditions will readily dissipate contaminants.
- E. Dangerous Buildings: All buildings, mobile homes or other structures which have been damaged by fire or have become in a condition of decay or partial ruin by neglect or misuse and are so situated as to endanger the health or safety of the public or provide a possible harborage for rodents or other pests.
- F. Derelict Vehicles: To cause or allow any derelict automobile, truck or other vehicle of conveyance to remain on any property, public or private, except in a salvage yard licensed by the State of Illinois or when kept under cover, except that any derelict automobile, truck or other vehicle of conveyance, whether under cover or not, which is identified as being a rodent harborage, shall be subject to removal from the property.
- G. Excavations, Wells and Other Ground Openings: Any excavation, hole, cistern, well or other depression made in the surface of the ground which may endanger the health or safety of any person.
- H. Refuse Accumulations: To deposit or allow to collect discarded lumber, building material, rubble or any other material on any property, public or private, which may endanger the safety of the public.
- I. Animal Houses: To maintain any kennel, stable, barn, house, coop, pen, yard or any other place where animals, including pets, are kept in an unsanitary condition whereupon an insect or odor nuisance is created.
- J. Weeds and Grasses: For any person to permit any weeds, grasses or other plants, to grow to or remain at, a height exceeding eight (8) inches on any premises, except as hereafter provided. This shall not apply to planted and cultivated trees, shrubbery, flowers or other ornamental plants used in landscaping the premises; provided however, such landscaping shall not be permitted to obstruct the vision of users of adjacent streets or other public ways.

1.4: Abatement of Nuisances:

- A. Inspection of Premises: Whenever complaint is made to the Health Administrator that a nuisance enumerated above exists, then such person shall forthwith inspect the premises and shall make a written report of his/her findings to the corporate authorities.

- B. **Summary Abatement:** If the Health Administrator shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health and safety, then he/she shall serve or cause to be served written notice on the owner, or, if the owner cannot be found to be served, notice shall be served on the occupant or other person causing, permitting or maintaining such nuisance and by posting on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove the same within twenty-four (24) hours and shall state that unless such nuisance is so abated, the Village may cause the same to be abated, and in such case will charge the costs thereof to the owner, occupant or other person causing, permitting or maintaining the same, as the case may be.
- C. **Abatement by Court Action:** If the Health Administrator shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health and safety, then the corporate authorities may cause an action to abate such nuisance to be commenced in the name of the Village in the appropriate Court.

1.5: Violations and Penalties: Any person who violates this section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each offense. Each day a violation continues shall constitute a separate offense.

SECTION 2: WEEDS.

2.1: Weeds and Grasses: It shall be unlawful for any person who owns vacant land or improved property within the Village to permit the growth of weeds upon his property in excess of eight inches (8") in height. It shall be the duty of all owners of land or improved property to keep such property free of such weeds, and to destroy all weeds necessary to be in compliance herewith. It is hereby declared a nuisance to permit the growth of weeds on vacant land or improved property within the Village in excess of (8") in height.

2.2: Failure to Remove or Destroy: In the event that any owner shall neglect or refuse to destroy such weeds as indicated above, the Village through its designated official shall notify such owner in writing of the failure to comply with the provisions pertaining to weeds. Failure of the Village through its designated official to give such notice shall not, however, constitute a defense to any action to enforce the payment of any penalty provided for or debt created under this section. In case any such owner or agent shall refuse to or neglect to destroy such weeds within ten (10) days of receipt of such notice, it shall be the right of the Village through its designated official to enter upon said land and to destroy said weeds or cause the same to be destroyed. Express power to so enter upon said land is hereby conferred upon the Village through its designated official.

2.3: Lien Imposed; Foreclosure: In addition to the penalties herein provided, the reasonable costs of the destruction of the weeds by the Village or designated official shall become a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens; provided, that within sixty (60) days after such cost and expense is incurred by the Village, the Village Clerk shall file a notice of such lien in the office of the Recorder of Deeds in Vermilion County, Illinois, and the Village Clerk is hereby authorized and directed to file such notices of such liens. Said notice of such lien shall consist of a sworn statement setting out a description of the real estate upon or for which the weeds were destroyed, and amounts of monies due for such service and the date or dates when such costs or expenses were incurred and became due. Upon payment of the costs and expenses by the owner of such property, or persons interested therein, after the notice of lien has been filed, the lien shall be released by the Village, provided that the current release fee of the County Recorder has been paid in addition to the costs or expenses incurred by the Village including the cost of recording the notice of lien.

2.4: Violations and Penalties: Any person who violates this section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each offense. Each day a violation continues shall constitute a separate offense.

SECTION 3: ABANDONED, INOPERABLE VEHICLES

3.1: Purpose: This Section shall govern the parking, storage and dismantling of motor vehicles within the Village.

3.2: Definitions: For the purpose of this Section, the following definitions shall apply:

Inoperable Motor Vehicle. Any motor vehicle on which the engine, wheels, steering apparatus or other essential parts have been removed or altered or do not function properly so that such motor vehicle is incapable of operating properly and safely or on which no current license has been issued for its operation on the public highways by the Secretary of State, providing that 1) vehicles which have been duly licensed and rendered temporarily incapable of being driven under their own motor power because of wreck or damage and are awaiting repair; 2) vehicles temporarily stored in duly licensed commercial garages and storage yards; and 3) vehicles kept inside a fully enclosed garage or storage building shall not be deemed "inoperable motor vehicles" within the meaning of this Section.

Motor Vehicle. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck trailer, motorcycle, tractor, buggy and wagon.

Owner. A person who holds legal title of a vehicle or in the event a vehicle is the subject of an agreement for conditional sale or lease thereof with the right of purchase upon the performance of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or lessee, or in the

event a mortgagor of such vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Section.

3.3: Storage, Parking or Dismantling of Abandoned, Inoperable Vehicles:

- A. Generally: No person shall park, leave, or permit the parking, or leaving of any motor vehicle of any kind which is in an abandoned, wrecked, dismantled, inoperable, rusted, junked or partially dismantled condition whether attended or not upon any private and public property within the Village for a period of time in excess of seventy-two (72) hours.
- B. Presence on Private Property; Nuisance Declared: The presence of an abandoned, wrecked, dismantled, inoperative, rusted, junked or partially dismantled vehicle or parts thereof on private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Section.

3.4: Removal Procedures:

- A. Notice to Remove:
 - 1. Whenever it comes to the attention of the Village President or his/her designee that any violation as stated above exists in the Village, a notice in writing shall be served upon the occupant of the land where the violation exists, or in case there is no such occupant, then upon the owner of the property or his/her agent, notifying them of the existence of the violation and requesting its removal in the time specified in this Section.
 - 2. The Village President or his/her designee shall give notice of removal to the owner or occupant of the private property where it is located at least seven (7) days before the time of compliance. It shall constitute sufficient notice when a copy of the same is posted in a conspicuous place upon the private property on which the vehicle is located, and duplicate copies are sent by registered mail to the owner or occupant of the private property at his/her last known address.
 - 3. The notice shall contain the request for removal within the time specified in this Section; and the notice shall advise that upon failure to comply with the notice to remove, the Village or its designee shall undertake such removal with the cost of removal to be levied against the owner or occupant of the property.

B. Hearing:

1. The persons to whom the notices are directed or their duly authorized agents may file a written request for hearing before the Village Board of Trustees within the seven (7) day period of compliance prescribed in section A2 above for the purpose of defending the charges of the Village.
2. The hearing shall be held as soon as practicable after the filing of the request, and the persons to whom the notices are directed shall be advised of the time and place of said hearing at least three (3) days in advance thereof. At any such hearing, the Village and the persons to whom the notices have been directed may introduce such witnesses and evidence as either party deems necessary.

C. Responsibility for Removal and Cost: Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled or inoperative vehicle and the owner or the occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the Village, the owner or occupant of the private property where the same is located shall be liable for the expenses incurred.

D. Removal by Village; Notice:

1. If the violation described in the notice has not been remedied within the seven (7) day period of compliance, or in the event that a notice requesting a hearing is timely filed, a hearing is held, and the existence of the violation is affirmed by the Village Board of Trustees, the President and/or his/her designee shall have the right to take possession of the junked motor vehicle and remove it from the premises. It shall be unlawful for any person to interfere with, hinder or refuse to allow such person or persons to enter upon private property for the purpose of removing a vehicle under the provisions of this Section.
2. Within forty eight (48) hours of the removal of such vehicle, the President and/or his/her designee shall give notice to the registered owner of the vehicle, if known, and also to the owner or occupant of the private property from which the vehicle was removed that said vehicle or vehicles has/have been impounded and stored for violation of this Section. The notice shall give the location of where the vehicle or vehicles is/are stored and the costs incurred by the Village for removal.

3.5: Disposition of Removed Vehicles: Removed vehicles shall be impounded until lawfully claimed or disposed of in accordance with chapter 625 ILCS 5/4-201 et seq.

3.6: Violations and Penalties: Any person who violates this section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each offense. Each day a violation continues shall constitute a separate offense.

SECTION 4: AUTOMOBILE SALVAGE YARDS

4.1: Purpose: This Section shall govern automobile salvage yards within the Village.

4.2: Definition: As used in this Section, the term “automobile salvage yard” shall mean any lot or place which is exposed to the weather, upon which more than two (2) motor vehicles of any kind, incapable of being operated, are placed.

4.3: Fences Required: An automobile salvage yard shall be entirely enclosed by a chain-link fence twelve feet (12’) in height, which shall be kept in good repair at all times.

4.4: Advertisements on Fences: The fence enclosing an automobile salvage yard shall not be used for bill postings or other advertising purposes, except that a space not larger than six feet by twelve feet (6’ X 12’) may be used for the advertisement of the business of the owner thereof. Where such yard fronts are on more than one street, the use of space for advertisement herein permitted shall extend to each street on which the yard abuts.

4.5: Open Fires: No open fires for the burning of rubbish, trash, automobile or any parts thereof, or other waste matter shall be permitted.

4.6: Rubbish and Trash: An automobile salvage yard shall, as far as practicable, be kept clear and clean of all rubbish or waste matter.

4.7: Violations and Penalties: Any person who violates this section shall be fined a minimum of \$100.00 and a maximum of \$500.00 for each offense. Each day a violation continues shall constitute a separate offense.

SECTION 5: Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 6: Effective Date. This ordinance shall be in full force and effect, after passage, approval and publication as required by law.

Passed by the Board of the Village of Bismarck, Vermilion County, Illinois, this 6th day of August, 2002.

AYES: 3

NAYS: 0

ABSENT: 3

APPROVED:

Julie I. Boersma

VILLAGE PRESIDENT

ATTEST:

Lyle R. Milner

VILLAGE CLERK

Published in pamphlet form this 6th day of August , 2002.

Lyle R. Milner

VILLAGE CLERK

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PUBLIC WITHIN THE VILLAGE OF BISMARCK

ADOPTED BY THE
CORPORATE AUTHORITIES
OF THE
VILLAGE OF BISMARCK

August 6, 2002

Published in pamphlet form by authority of the President and Board of Trustees of
the Village of Bismarck, Vermilion County, Illinois, the 6th day of August, 2002.