

ORDINANCE NO. 2018- 13

**AN ORDINANCE REVOKING, REPLACING, AND SUPERSEDING
RESIDENTIAL LANDSCAPE ORDINANCE (NO. 00-06)
AND
AMENDING
PUBLIC HEALTH REGULATIONS ORDINANCE (NO. 308)**

WHEREAS, the Village of Winnebago Board of Trustees on July 10, 2000, previously passed Ordinance No. 00-06 titled as the Residential Landscape Ordinance; and

WHEREAS, prior thereto on May 2, 1958, the Village Board of Trustees passed Ordinance No. 308 dealing with regulations for the protection and preservation of the public health and safety of the citizenry of the Village of Winnebago, IL, and

WHEREAS, with the passage of time there have been changes in circumstances which make it prudent, and in the best interest of the citizens of the Village of Winnebago to change and add to certain of the provisions in the Residential Landscape Ordinance (No. 00-06), and to amend certain provisions of the public health protection and preservation ordinance (No. 308); and

WHEREAS, to avoid confusion it is best to revoke, replace, and supersede Ordinance No. 00-06 with this instant new ordinance, and to amend provisions of Ordinance No. 308 by this new ordinance.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Winnebago, Winnebago County, Illinois, as follows:

SECTION 1

The Residential Landscape Ordinance previously passed as Ordinance No. 00-06 on

July 10, 2000, shall be, and hereby is, revoked and superseded and replaced with the following language:

ARTICLE I
OBNOXIOUS WEEDS, BUSHES, AND HEAVY UNDERGROWTH

- A. **VIOLATION.** It shall be unlawful for any person, firm, or corporation owning, leasing, occupying, or controlling any premises or plot of ground, including the area abutting any public streets, alleyways, roads or other rights of way commonly referred to as parkways, to permit the growth upon it of any obnoxious weeds, bushes, and heavy undergrowth which serve as a breeding place for mosquitoes and other insects and rodents. Such obnoxious weeds, bushes, and heavy undergrowth are defined as any of those which at any time exceed 10 inches in height. Such obnoxious weeds, bushes, and heavy undergrowth are hereby declared to be a public nuisance. All such obnoxious weed, bushes, and heavy undergrowth shall be pulled, cut, and destroyed by any person, firm, or corporation owning, leasing, occupying, or controlling the premises or plot of ground whenever the grass has reached a height of 8 inches.
- B. **REMOVAL BY VILLAGE.** Whenever any person, firm, or corporation owning, leasing, occupying, or controlling any premises or plot of ground, including the associated park ways or right of ways abutting those properties and located within the Village, refuses or neglects to cut, pull, or otherwise destroy the obnoxious weeds, bushes, or heavy undergrowth, after notice is provided in the manner prescribed in Article VII hereinbelow, the Public Works Department, or its designee, shall proceed to pull, cut, or otherwise destroy the obnoxious weeds, bushes, or heavy undergrowth. A fee of Two hundred and 00/100 dollars

(\$200.00) per residential lot up to one (1) acre, plus an additional Two hundred and 00/100 dollars (\$200.00) for each additional residential acre or part thereof, or a cost of Three hundred and 00/100 dollars (\$300.00) for up to a one (1) acre commercial lot, plus an additional Two hundred dollars (\$200.00) for each additional acre or part thereof of a commercial lot, shall be charged for pulling, cutting, or destroying the obnoxious weeds, bushes or heavy undergrowth, and collected from the person, firm, or corporation owning, leasing, occupying, or controlling the premises or plot of ground. Such expense shall be charged to and paid by the owner or occupant and shall be collected by the Village by suit or otherwise. The above charges shall be in addition to the fines and penalties imposed for violation as set forth in Article VI hereinbelow.

- C. **NOTICE OF LIEN.** The Village of Winnebago within thirty (30) days after the costs and expenses of pulling, cutting, or destroying obnoxious weeds, bushes, or heavy undergrowth is incurred shall file notice of a lien in the Office of the Recorder of Deeds of Winnebago County if the invoice is not paid. Said notice shall consist of a sworn statement setting out the description of the premises or plot of ground, the amount of money representing the costs and expenses incurred, and the date or dates when said costs or expenses were incurred by the Village of Winnebago.

ARTICLE II **SHRUBS AND TREES**

- A. **GENERAL MAINTENANCE STANDARDS.** Every property owner must maintain the trees and shrubs, and any other vegetation, on his or her property and

on the parkways abutting his or her property in a safe and healthy manner; must keep trees and shrubs , and any other vegetation, properly watered, trimmed, pruned, sprayed, treated, and preserved so as to avoid disease, insect infestation, or other conditions detrimental to such trees and to avoid hazards to persons, property, and other vegetation; and must remove trees and shrubs, and any other vegetation, on her or his property that are so unsafe, unhealthy, diseased, or insect-infested as to constitute a hazard to persons, property, or other vegetation.

B. TREES NOT TO BE PLANTED AS PRIVATE TREES. No person, businesses, organization, corporation, etc., shall plant any of the following trees as private trees:

- (a) Aspen
- (b) Black locust
- (c) Box elder
- (d) Catalpa
- (e) Elms (all varieties)
- (f) Cottonwood
- (g) Poplar
- (h) Soft (silver) maple
- (i) Tree of heaven (Ailanthus)
- (j) Willows

C. REMOVAL OF DISEASED, DEAD, AND DANGEROUS TREES.

1. Obstructions and Other Dangerous Conditions. Every owner or occupant of any house, building, lot, or premises in the Village, whether such owner or occupant is a business, corporation, organization, or individual person, must keep trees, shrubs, vines, and other vegetation located on her or his property trimmed and maintained so as to prevent the following and/or has a duty to remove the following:

(a) Any tree that is diseased, dead, dangerous, or likely to fall or that is otherwise so unsafe, unhealthy, or insect infected as to constitute a hazard to persons, property, or other vegetation;

(b) The obstruction of any street, pedestrian path, or designated Village path to any extent that interferes with free passage and clear view along such streets and paths and at any street or driveway intersection;

(c) The obstruction of any sewer, drainage way, or septic field;

(d) The dangerous proximity of any tree or other vegetation to public utility lines; or

(e) Any tree of a type prohibited by the terms of this ordinance..

2. Notice of Violation. If a tree or other vegetation has not been trimmed or cut as required by this ordinance, then the Village Building Official, or designee, must cause a written notice of violation to be issued as follows:

(a) The notice must be served personally or sent by certified mail to the person to whom was sent the last preceding general tax bill for the property on which the subject tree or trees are located, and a copy of the notice must be mailed to the occupant of such property.

(b) The notice must identify, in general, the affected tree or trees, or other vegetation, and the violation or violations. The notice also must state that the violation or violations must be cured within thirty (30) days after the date of delivery or mailing shown on the notice and that, thereafter, the Village may issue a citation and may itself undertake all action necessary to cure the violation or violations.

3. Village Action if Violation Not Cured; Costs and Expenses. If the owner of the property has not cured all violations stated in the notice within thirty (30) days after the date shown on the notice, then the Village, with its own forces or forces hired by the Village, may take all necessary actions to cause the violation or violations to be cured. The Village will assess all direct and indirect costs expenses incurred in connection therewith, including the costs of collection, against the property owner. If those costs and expenses are not paid by the property owner within thirty (30) days after receipt of a written invoice, then the Village may place a lien on the subject property and perfect that lien in the manner provided by law.

4. Inspections. The Village Building Official, or designee, may cause inspections and surveys to be conducted as necessary to determine the existence, nature, and extent of violations of this section, and the Village Building Official, or designee, will report the results of such inspections and surveys to the Village President, or designee.

5. Appeal. See the provisions of Article VII below for the appeal procedure.

**D. DEAD OR DISEASED SHRUBS AND TREES DECLARED
NUISANCE.**

Dead trees, tree branches, or dead bushes and shrubs, or other plants or parts thereof, as well as diseased plants of any type which threaten to spread disease to other plants or animals or harbor rodents or pests, or other vegetation located on private property that is maintained in violation of any of the foregoing

standards, are hereby declared to be a nuisance, unlawful, and subject to the penalty and removal and or remediation costs referenced herein.

ARTICLE III SWIMMING POOLS

- A. **PURPOSE.** The provisions of this section shall control the design of barriers for residential swimming pool, spas, and hot tubs. These design controls are intended to provide protection against potential drownings and near drownings by restricting access to swimming pools, spas, and hot tubs.
- B. **DEFINITIONS.** For the purposes of this article, the terms used shall be defined as follows:
1. **ABOVE-GROUND/ON-GROUND POOL:** See definition of swimming pool.
 2. **BARRIER:** A fence, a wall, a building wall or a combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.
 3. **HOT TUB:** see definition of swimming pool.
 4. **IN-GROUND POOL:** see definition of swimming pool.
 5. **RESIDENTIAL:** That which is situated on the premises of a detached one-or-two-family dwelling or a one-family townhouse not more than three stories in height.
 6. **SPA, NONPORTABLE:** See definition of swimming pool.
 7. **SPA, PORTABLE:** A nonpermanent structure intended for recreational bathing, in which all controls, water-heating, and water-circulating equipment are an integral part of the product and which is cord-connected (not permanently electrically wired).
 8. **SWIMMING POOL:** Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, above-ground, and on-ground swimming pools, hot tubs, and spas.

9. **SWIMMING POOL, INDOOR:** A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.
10. **SWIMMING POOL, OUTDOOR:** Any swimming pool which is not an indoor pool.

C. LOCATION AND STRUCTURAL DESIGN.

1. **LOCATION.** No swimming pool shall encroach on any front or side yard required by the governing subdivision and zoning ordinances. A wall of a swimming pool shall not be located less than 6 feet from any rear or side property line or 10 feet from any street property line.
2. **STRUCTURAL DESIGN.** The pool structure shall be engineered and designed to withstand the expected forces to which the pool will be subjected.
3. **WALL SLOPES.** To a depth up to 2 feet 9 inches from the top, the wall slope shall not be more than one unit horizontal in five units vertical. (1:5)
4. **FLOOR SLOPES.** The slope of the floor on the shallow side of the transition point shall not exceed one unit vertical to seven units horizontal (1:7). The transition point between shallow and deep water shall not be more than 5 feet.
5. **SURFACE CLEANING.** All swimming pools shall be provided with a recirculating skimming device or overflow gutters to remove scum and foreign matter from the surface of the water. Where skimmers are used for private pools, there shall be at least one skimming device for each 1,000 square feet. Overflow gutters shall not be less than 3 inches deep and shall be pitched to a slope of one unit vertical to 48 units horizontal (1:48) toward drains, and constructed so that such gutters are safe, cleanable, and that matter entering the gutters will not be washed out by a sudden surge of entering water.
6. **STEPS AND LADDERS.** At least one means of egress shall be provided from private pools. Treads of steps and ladders shall have slip-resistant surfaces and handrails on both sides, except that handrails are not required where there are not more than four steps or where the steps extend the full width of the side or end of the

pool. Treads and risers of the pool steps shall conform to the following:

- (a) Step treads shall have a minimum unobstructed horizontal depth of 10 inches and a minimum unobstructed surface area of 240 square inches.
- (b) Risers shall have a maximum uniform height of 12 inches as measured at the centerline of the tread. The height of the bottom riser shall not vary more than plus or minus 2 inches from the uniform riser height.

D. **WATER SUPPLY.** The swimming pool owner shall be responsible for providing the swimming pool with a potable water supply, free of cross-connections with the pool or its equipment. Private swimming pools shall be designed and installed so that there is a pool water turnover at least once every 18 hours. Filters shall not filter water at a rate in excess of 5 gallons per minute per square foot of surface area. The pool owner shall be responsible for being instructed in the care and maintenance of the pool by the supplier or builder, including treatment with high-test calcium hypochlorite (dry chlorine), sodium hypochlorite (liquid chlorine), or equally effective germicide and algacide, and the importance of proper pH (alkalinity and acidity) control.

The swimming pool and equipment shall be equipped to be emptied completely of water, and the discharged water shall be disposed of in an approved manner that will not create a nuisance to adjoining property.

E. **APPURTENANT STRUCTURES AND ACCESSORIES.** All appurtenant structures, installations, and equipment, such as showers, dressing rooms, equipment houses, or other buildings and structures, including, but not limited to, plumbing, heating, and air conditioning systems, shall comply with all applicable

codes and ordinances. All swimming pool accessories shall be designed, constructed, and installed so as not to be a safety hazard. Installations or structures for diving purposes shall be properly anchored to ensure stability.

F. ENCLOSURES FOR PRIVATE SWIMMING POOL, SPAS, AND HOT

TUBS. An outdoor private swimming pool, including an in-ground, above-ground, or on-ground pool, hot tub, or spa shall be provided with a barrier which shall comply with the following:

1. A wall or fence enclosure of four (4) feet minimum height shall be constructed to completely enclose the pool area for all swimming pools built below the ground level and those swimming pools built above ground level of less than four (4) feet in height, as well as all hot tubs and spas. These fences shall be equipped with self-closing and self-latching devices placed in such a manner as to be an effective barrier to small children. Openings in the barrier shall not allow passage of a sphere four (4) inches in diameter or larger.
2. All above ground swimming pools of four (4) feet height or more need not have an additional fence or a wall enclosure. Each of these pools, however, shall have retractable ladders installed in such a way as to be an effective barrier to small children. It shall be the responsibility of the owners, tenants, or agents of said pools to enforce to provisions of this section and to see that said retractable ladders are effective barriers to small children.

G. LOCATION PERMIT REQUIRED. Prior to the commencement of any

construction or installation of a swimming pool, a location permit shall be secured from the Village Building Official. The fee for a location permit shall be the same as for other types of construction in the Village, but in no instance shall the fee for the permit be less than Fifty and 00/100 dollars (\$50.00).

H. LIABILITY OF AGENT OR TENANT FOR VIOLATION. Any person in

possession of the property, either as agent or tenant in any manner or form, shall

be equally liable with the owners of said property for the violation of this ordinance.

ARTICLE IV
FENCES AND WALLS

- A. **LOCATION.** All boundary line fences shall be located entirely within the private property of the person, firm, or corporation constructing or causing construction of such fence.
- B. **INSTALLATION AND MAINTENANCE.**
1. Every new fence installation shall require a permit. The permit application must be filed with the Village office and the permit paid for before installation begins.
 2. Every fence shall be constructed in a professional and workmanlike manner, and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. The materials and design shall also be compatible with other structures in the area in which the fence is located and shall not cause blight or a negative impact.
 3. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health, or welfare is a public nuisance, and the Village shall commence proper proceedings for the abatement thereof.
 4. All posts or similar instruments used in the construction of fences shall be faced inward toward the property being fenced.
- C. **ACCESS.** All fences shall be provided with a gate which affords reasonable and convenient access for public safety.
- D. **FENCES PROHIBITED.** Barbed wire fences and electric fences shall be prohibited within the Village except within District 6 – Agricultural and District 7 – Limited Agricultural when related to farming, and hobby farms.

The above property owners agree to allow an easement for a fence to be placed closer to the property line than three (3) feet. The property owners also agree to allow the property owner to continue necessary maintenance of the fence and allow them an easement for the maintenance of the fence, which may include trespassing onto the adjacent property.

The fence will be constructed _____ feet from the property line.

A site plan of the property and location of the fence is attached and part of this agreement. The fence will be constructed of _____

And will be _____ feet high.

In the event of any dispute or legal action between the parties concerning the enforcement or interpretation of this agreement each party shall be responsible for their own attorney's fees.

This Agreement is entered into on the _____ day of _____, 20 _____

In the Village of Winnebago, County of Winnebago, State of Illinois.

I hereby certify that I have witnessed the signatures on this document and have verified their names and addresses.

Notary Signature _____ Notary Seal:

Date _____

F. **RESIDENTIAL DISTRICT FENCES.** All residential district fences shall be placed within the property being fenced.

1. **CORNER LOTS.** No fence, wall or planting shall rise over three (3) feet in height above the street curb level within twenty (20) feet of any street right-of-way corner, so as to interfere with traffic visibility.
2. **RESIDENTIAL DISTRICT - SIDE YARD.** No fence or wall, other than a retaining wall, along a side lot line in a residential district, shall be higher than six (6) feet unless the adjoining lot is not in the residential district.

3. **RESIDENTIAL DISTRICT – REAR YARD.** Fences having a height of six (6) feet or less may be located within the required rear yard in any residential district.
- G. **NON-RESIDENTIAL DISTRICTS – FENCES AND WALLS.** Required walls or fences used as screens between a residential district and a non-residential district shall be of not less than 90% opacity and not less than five (5), nor more than seven (7) feet in height above the level of the residential district boundary. The height regulations shall not apply to screens of parking and loading areas.
- H. **PLANTINGS.** Screen plantings may be substituted for walls or fences, provided such plantings are of such type as to permit a minimum of 90% opacity during all months of the year.
- I. **EXCEPTIONS.** Walls or fences of lesser or greater heights or planting screens of lesser opacity or otherwise not conforming with the subdivision may be permitted by the Zoning and Planning Board if there is a finding that the nature of the use being screened is such that a lesser or greater degree of screening will be adequately promote and protect the use and enjoyment of the properties within the adjacent residential district, or there is a finding that the screening of the type required by this article would interfere with the provisions of adequate amounts of light and air to the same said properties.

ARTICLE V
PUBLIC WAY OBSTRUCTIONS

- A. It shall be unlawful for any person to:
1. Cause, create, or maintain any unauthorized obstruction of any public street, driveway, curb, gutter, alley, parkway, sidewalk, drainage ditch, or other public way;

2. Deposit grass, leaves, yard waste, or snow from a private lot, private driveway, street, drainage ditch, or parking lot in a manner causing or creating obstruction of any other such private facilities or any public street, driveway, curb, gutter, alley, parkway, sidewalk, drainage ditch, or other public way; and
3. Obstruct any drain on any public street, alley, parkway, drainage ditch, or other property easement.

B. It shall be unlawful for any person to:

1. Plow or otherwise remove accumulated snow from a private parking lot and deposit the same on a Village street or right-of-way.
2. Plow snow from a private driveway and deposit same on a Village street in such a manner to decrease the drivable width of any such street;
3. Plow snow from a private driveway and deposit the same in such a manner as to block or decrease the useable width of other private driveway or to block a fire hydrant; and
4. Rake, blow, or otherwise deposit grass, leaves, or yard waste from private property onto a Village street or right-of-way.

ARTICLE VI **FINES AND PENALTIES**

Any person, firm, corporation or organization violating any provision of this ordinance shall be guilty of a petty offense and, upon conviction thereof, shall be punishable by a fine not to exceed Seven hundred fifty and 00/100 dollars (\$750.00). A person, firm, corporation, or organization shall be deemed guilty of a separate offense for each day during any portion of which a violation of this ordinance is committed, continued, or permitted by the person, firm, corporation, or organization and shall be punishable as herein provided.

ARTICLE VII
ENFORCEMENT, VARIANCES, AND APPEAL

A. NOTICE OF VIOLATION.

1. The Village Building Official shall be responsible for enforcement of this ordinance. The Village Building Official shall serve or cause to be served notice in writing upon the person, firm, or corporation owning, leasing, occupying, or controlling the premises or plot of ground to the last known address of that person, firm, or corporation deemed to be in violation of the ordinance. Such notice shall demand compliance with the requirements of this ordinance within a reasonable period of time. The failure to remedy the violation within the time period prescribed by the written notice shall constitute a violation of this ordinance.
2. Any person not in compliance with any required provision of this ordinance within a reasonable period of time after the above notice has been sent, shall be subject to the fines and penalties referenced in Article VI hereinabove, as well as the cost of any required removal or remediation as described above.
3. In addition to other remedies as specified in this ordinance, the Village may institute any appropriate action or proceeding to prevent, restrain, correct, or abate any violation of this ordinance, including such actions as may be necessary for the Village to recoup costs incurred and reasonable attorney fees in pursuance of the enforcement of this ordinance.

B. VARIANCES. Any applicant requesting a variance from any provision of this ordinance shall submit such a request according to the normal and established procedures of the Village Zoning Board, which entity shall decide by a majority vote whether the requested variance shall be granted or denied. An applicant who is dissatisfied with the decision of the Village Zoning Board may appeal the decision to the Village Board of Trustees according to the procedure stated hereinbelow.

C. APPEALS.

1. An appeal may be taken to the Board of Trustees from any order, requirements, decision or determination made by the Village Building Official or the Zoning Board in the enforcement of this ordinance, which appeal shall act as a stay of all proceedings in furtherance of the action appealed from until a final decision is made by the Village Board of Trustees. In order for a decision of the Village Zoning Board to be overridden by the Village Board of Trustees, a two-thirds (2/3) affirmative vote of the Village Board of Trustees shall be required.
2. All final decisions of the Village Board of Trustees under this section shall be subject to judicial review pursuant to the provisions of the Administrative Review Act covered by Illinois Compiled Statutes, Ch. 110 Section 5/3-101 et seq.

ARTICLE VIII
AMENDMENTS

This ordinance may be amended in whole or in part by a simple majority vote of the members of the Village Board of Trustees.

ARTICLE IX
EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as required by law. If any section of this ordinance shall be found to be unconstitutional or otherwise unenforceable, all remaining sections shall remain in full force and effect.

SECTION 2

AMENDMENT OF ORDINANCE NO. 308 DATED MAY 2, 1958

Division 3 of Section I of Ordinance No. 308 is deleted in its entirety, and Division 4 of Article I of Ordinance No. 308 is deleted only insofar as it relates to the penalty for noxious weeds. These divisions shall be superseded and replaced by Section 1 Article 1, Sub-sections A,

B, and C above as contained in the instant ordinance. All other parts of said Ordinance No. 308 not in conflict herewith shall remain in full force and effect.

SECTION 3—EFFECTIVE DATE OF INSTANT ORDINANCE NO. 2018-

This Ordinance No. 2018- _____ shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as required by law. If any section of this ordinance shall be found to be unconstitutional or otherwise unenforceable, all remaining sections shall remain in full force and effect.

PASSED and adopted by the Village Board this day of _____, 2018.

APPROVED:

By: _____
Franklin J. Eubank, Jr., President of the
Village of Winnebago

ATTEST:

Sally Jo Huggins, Village Clerk

Ayes: _____

Nays: _____

Absent: _____

PASSED: _____

APPROVED: _____

**PUBLISHED IN
PAMPHLET FORM:** _____

RECORDED: _____