VILLAGE OF FLANAGAN
LIVINGSTON COUNTY, ILLINOIS

ORDINANCE NO. 2023-04

REPEALING ORDINANCE 2023-02 AND REPLACING SAID ORDINANCE WITH AN ORDINANCE ENUMERATING CERTAIN PUBLIC NUISANCES

ADOPTED BY
THE PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF FLANAGAN

This 18 day of April 2023

VILLAGE OF FLANAGAN, ILLINOIS

ORDINANCE NO. 2023-04

REPEALING ORDINANCE 2022-02 AND REPLACING SAID ORDINANCE WITH AN ORDINANCE ENUMERATING CERTAIN PUBLIC NUISANCES

Be it ordained by the Village Board of Flanagan, Illinois, as follows:

The following conditions are hereby declared to be public nuisances for any person within the limits of the Village or within its territorial jurisdiction.

A. **Statutory Nuisances.** To cause or maintain any nuisance as defined as such by the Illinois Municipal Code of the Illinois Compiled Statutes as currently exist or hereafter amended.

B. **Offensive or Unwholesome Business.** To establish, maintain and carry on any offensive or unwholesome business.

1. **Breweries and Distilleries.** To locate in the Village, without first having obtained the permission of the Village so to do, any brewery or distillery.

2. **Intoxicating Liquors.** To sell directly or indirectly, or keep for sale, or to give away in any place in the Village intoxicating malt, vinous, mixed or fermented liquors, or other like drinks, in any quantity whatever, unless the same shall be kept, sold or given away under a permit or license duly granted by the Village. However, it shall not be a violation of this Ordinance for residents to provide such liquors to social guests on their private property.

3. **Slaughterhouses.** To slaughter or kill any meat, cattle, hogs, or sheep, or keep, maintain, or use therein any house or place in which the business of slaughtering of any said animals may be carried on in the Village without a permit so to do from the Village.

4. **House of Prostitution.** To conduct, maintain, or carry on any house or location where men and women of any age are present for prostitution or lewdness, such as to remove clothing for money.

C. **Offensive Substances.**

1. **Smoke.** To allow or permit any dense smoke to come or be emitted from any chimney, burn pile, or engine within the Village to travel across a property line.

2. **Offensive Odors.** To negligently conduct any business or to use any premises to create such offensive or foul smell as to taint the air and render it unwholesome or disagreeable to the adjacent properties or public ways. This shall include the burning of garbage, refuse, landscape, and/or yard waste.

3. **Deposits in Waters or On Land.** To deposit, or cause to be deposited or to remain, any offensive matter, such as the carcass of any animal or materials that rot or decay and attract other animals or insects, into any watercourse, pond, spring, or well, or on any land.

D. **Plants, Weeds, Grass, and Trash.**

1. **Certain Trees.** To plant or permit the growth of cottonwood trees, weeping willow trees, ash trees, or box elder trees upon any premises to the injury or prejudice of others.

2. **Dutch Elm and Ash Bore Disease.**

    1. No person owning real estate within the Village shall permit to grow thereon or remain thereon any elm tree infected with Dutch elm or ash bore disease, and to do so is hereby declared to be a nuisance.

    2. The owner of any premises within the Village on which there is an elm tree infected with Dutch elm disease or an ash tree infected with ash bore disease shall remove the same immediately upon discovering it, by cutting the same down. The tree so cut down, together with all its limbs, shall be removed by the owner.

3. **Weeds, Grass, and Trash.** To permit the growth of any noxious weeds, grass or plants including, but not limited to, jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind, or to permit any premises to be grown up with weeds and brush and grass to the height of eight (8) inches or more, or to accumulate trash which may become injurious to the health of the community.

4. **Burning of Lawn Refuse.** To burn lawn clippings and lawn refuse such as leaves but not including refuse from trees.

5. **Disposal of Waste from Tree Experts**

    A. All tree experts must, as part of any contract to trim or cut down one or more trees or remove any stump, remove all limbs, branches or stumps or parts

thereof (hereinafter referred to as "tree waste") from the work site.

B. It shall be unlawful for any tree expert to:

(1) Place any tree waste on public right-of-way for disposal as bulk waste by the Village of Flanagan; or

(2) Suggest that the owner of the property place any tree waste on public right-of-way for disposal as bulk waste by the Village of Flanagan; or

(3) Offer or agree to reduce the contract price by the amount of costs of disposal of tree waste.

C. Penalty. Any tree expert who violates this section shall upon conviction, be fined not less than $50 nor more than $200 for the first offense; and not less than $200 nor more than $500 for subsequent offenses. In addition, if the Village of Flanagan has disposed of tree waste placed for disposal in violation of this section, the defendant shall be ordered to reimburse the Village for the cost of collection.

TREE EXPERT
For purposes of this Ordinance, a "tree expert" means any person, partnership, corporation, firm, or any other entity of any description who trims or removes trees or stumps from any property other than which they own, operate, or otherwise control.

E. **Polluting Water Supply.** To corrupt or render unwholesome or impure the water of any drinking hydrant, spring, stream, pond, or lake to the injury or prejudice of others.

F. **Junk, Trash, and Refuse.**

1. **Prohibited.** To deposit, allow to remain, or store in the open any junk, trash, and refuse on private or public property within the Village where such storage is not specifically authorized under the provisions of the Zoning Regulations of the Village.

2. **Definition.** "Junk", "trash" and "refuse" are defined herein to include any and all waste matter, whether reusable or not, which is offensive to the public health, safety, or the aesthetics of the neighborhood, and is specifically intended to include, but not be limited to, paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials, old iceboxes or refrigerators, stoves, or any inoperable appliances, lawn tractors or any inoperable equipment,

machinery of any kind, any parts thereof, worn out, wrecked, inoperable, or abandoned automobiles, and any vehicles not currently licensed by the state or other state or country, exposed to the view of the general public and not either in a building or structure or located on the sales lot of a licensed automobile dealer.

G. **Encroachments; Obstructions.** To obstruct or encroach upon any public highways, private ways, streets, alleys, commons, or sidewalks.

H. **Cemeteries.** To establish a cemetery within the corporate limits within one mile of the limits thereof, without first having obtained permission so to do by the Village and properly authorized by the State of Illinois.

I. **Offenses Regarding Premises.**

1. **Generally.** To keep, or allow to be kept in a foul, offensive, nauseous or filthy condition any chicken coop, stable, cellar, drain, pool, toilet, sewer, or sink, upon any building, yard, ground, or premises.

2. **Cellars, Sewers, and Drains.** To suffer or permit any cellar, vault, private drain, pool, sewer or sink upon any premises belonging to or occupied by him to become nauseous, foul, offensive, or injurious to the public health.

J. **Motor Vehicle Noise.** To operate a motor vehicle or engine, in an area zoned for residential purposes when said vehicle or engine:

1. Is not equipped with an adequate muffler; or

2. Is equipped with a muffler or exhaust system with a cutout, bypass, or similar device; or

3. Is equipped with a muffler or exhaust system modified so as to amplify or increase the noise above that emitted by the originally installed muffler.

K. **Privies.** To erect or maintain any privy within the Village limits.

L. **Sump Pump Discharge Lines.** To route sump pump discharge lines over or onto public sidewalks or other public ways.

M. **Keeping Animals or Fowl.** Residents are prohibited from owning any agricultural, wild or exotic animals. To keep, store, maintain or allow any agricultural animals such as cattle, swine, sheep, goats, chickens, ducks, bees, and geese in any

enclosure or pen within the Village unless within an agricultural zoning district or to keep, house, or pasture within the Village any cattle, swine, sheep, goats, chickens, ducks or geese so as to be offensive to those residing adjacent to or surrounding properties due to odor, noise, loss of property values or other reason.

To keep, store, maintain, or allow any exotic animal such as monkeys, raccoons, skunks, foxes, life-threatening snakes or reptiles, hawks or raptors, leopards, panthers, tigers, lions, lynxes, bears, wolves, coyotes, or any other animal or reptile which can normally be found in the wild state.

Also, it shall be a public nuisance to feed, shelter, or otherwise maintain any wild animals, such as, but not limited to cats or dogs. For the purpose of this Ordinance, "wild animals" shall mean any animal not otherwise listed above that is not a domestic pet as shown by that Animal having its shots as required by law or applicable regulations, being registered, and being sheltered in the home of a resident.

Further, it shall be a public nuisance to allow any animal belonging to a resident to be off that resident's property without being restrained by the resident or owner by a leash or similar device.

N. **Injurious Conditions.** To cause, permit or maintain any other act or condition which is injurious or dangerous to public health, or which causes injury, annoyance, or inconveniences to the public.

O. **Enforcement Process.** The Village shall enforce any violations as follows:

1. Notice to Abate. It shall be the duty of the Village, its duly appointed representative, the Livingston County Sheriff's Department, or a Sheriff's Deputy, to serve or cause to be served a notice upon the owner or occupant of any premises on which public nuisance exists in violation of the provisions of this Ordinance and to demand the abatement of the nuisance within seven (7) calendar days of the notice.

2. Abatement by Village. If the person so served does not abate the nuisance within seven (7) calendar days, they shall be subject to a fine of no less than $50.00 and no more than $350.00 plus court costs. A separate offense shall be deemed committed each day a violation occurs or continues."

   The Village may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by such owner or occupant.

   The Village shall have the right to take such legal steps to collect amounts owed for the abatement of illegal weeds and/or grass as it deems necessary, including, but not limited to, the procedure set forth herein. All costs and fees for this

abatement incurred by the Village shall be the responsibility of the owner or occupant.

3. Lien. Charges for such weed or grass removal shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for sixty (60) calendar days after it has been rendered, the Village may file a sworn statement of lien claim with the Livingston County Recorder. This statement shall contain a description of the premises sufficient to identify the parcel, the expenses, and costs incurred, the date the weeds were cut or nuisance was abated, and notice that the Village claims a lien for this amount. Notice of such lien claim shall be mailed to the owner of the premises if his or her address is known. However, the failure of the Village to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for such charges as provided in subsection (g) hereof.

4. Foreclosure of Lien. Property subject to a lien for unpaid weed, grass, or plant cutting charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs and fees, as is the case in the foreclosure of statutory liens. The Village Attorney is hereby authorized and directed to institute such proceedings, in the name of the Village, in any court having jurisdiction over such matter, against any property for which such bill has remained unpaid sixty (60) days after it has been rendered.

5. Enforcement Process. The Village, its officers, and staff shall follow the following process in enforcing this Ordinance:

    a. Determine whether a nuisance exists.

    b. Make a record of the nuisance by taking photos and preparing documentation including dates.

    c. Prepare notice and have it served.

    d. Re-inspect after seven (7) calendar days from the date notice was served.

    e. Make a record of re-inspection by taking photos and preparing documentation including dates.

    f. Obtain proof of service of notice.

    g. If there is no compliance, the Village may abate the nuisance and document the costs thereof and issue a fine of no less than $50.00 and no

more than **$350.00** plus court costs for each separate offense prior to abatement.

h. Send itemization of costs with demand for payment to the property owner. Advise that non-payment of these costs within sixty (60) calendar days will result in the Village filing a lien on the property and possible legal action to foreclose on the lien

i. Sixty (60) calendar days after abatement if there is no payment for the costs to the Village to abate nuisance, the Village may record a lien

j. If the lien is not satisfied, after a period of time left to the Board, legal action may be authorized to foreclose on the lien.

P. This Ordinance shall supersede any ordinances or motions or parts of ordinances or motions in conflict with any part herein, and any such ordinances or motions or parts of such ordinances are hereby repealed.

Q. **Severability.** If any section, paragraph, or provisions of the Ordinance shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any of the remaining provisions of this Ordinance.

R. **Publication.** The Secretary of the Village of Flanagan is hereby directed to publish this Ordinance in full at least once in a newspaper published in the Village. Publication shall take place no later than (30) days following the adoption of this Ordinance. The provisions of this Ordinance shall be in full force and effect ten (10) days after publication as provided by law (65 ILCS 5/1-2-4).

PRESENTED to the Board of Trustees of the Village of Flanagan, Livingston County, Illinois, this 18 day of April 2023.

PASSED by the Board of Trustees of the Village of Flanagan, Livingston County, Illinois, this 18 day of April 2023.

SIGNED by the President of the Board of Trustees of the Village of Flanagan, Livingston County, Illinois, this 18 day of April 2023.

AYES: 6

NAYES: Ø

ABSENT: Ø

David Iverson
Village President
Village of Flanagan

ATTEST:

Abbi L. Power Simpkins
Village Clerk
Village of Flanagan

IL (SEAL)