

ORDINANCE NO. 2026-01

AN ORDINANCE TO REPEAL AND RECREATE SEC. 11-5-7 OF THE MUNICIPAL CODE OF THE VILLAGE OF GAYS MILLS, CRAWFORD COUNTY, WISCONSIN, RELATING TO ABATEMENT OF PUBLIC NUISANCES

THE VILLAGE BOARD OF THE VILLAGE OF GAYS MILLS, CRAWFORD COUNTY, WISCONSIN, DO ORDAIN AS FOLLOWS:

Section 1: Section 11-5-7 of the Municipal Code of the Village of Gays Mills is hereby repealed and recreated to read as follows:

“SEC. 11-5-7 ABATEMENT OF PUBLIC NUISANCES

(a) Inspection of Premises. Whenever complaint is made to the Village President that a public nuisance exists within the Village of Gays Mills, he or she shall promptly notify the Chief of Police, Fire Chief, Director of Public Works, Weed Commissioner, Building Inspector, or other authorized Village official who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his or her findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk.

(b) Summary Abatement. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals, or decency, the Village President may direct the inspecting officer to proceed under this Section 11-5-7(b).

(1) Notice to Owner. If the inspecting officer shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals, or decency, the Village President may direct the inspecting officer or other authorized Village official to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(2) Abatement by Village. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the inspecting officer or other authorized Village official shall cause the abatement or removal of such public nuisance.

(c) Non-Summary Abatement. If the inspecting officer determines that a public nuisance was created or is being maintained and there is not a great and immediate danger to the public health, safety, peace, morals, or decency, the Village President may direct the inspecting officer to proceed under this Section 11-5-7(c).

(1) Issuing an Order. The inspecting officer may serve an order to a person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said order on the premises. Such

order shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within fifteen (15) days from its date of delivery and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, permitting or maintaining the nuisance, as the case may be.

(2) *Private Abatement.* The recipient of an order must abate the public nuisance referred to in the order within fifteen (15) days of its date of delivery. If abating a public nuisance within that timeframe would present a particularized hardship on the recipient of the order, the recipient may submit a written statement to the inspecting officer detailing the hardship and requesting an extension. Such written statement must be received by the inspecting officer prior to the expiration of the time for the recipient to lawfully abate the public nuisance. For clarity, recipients requesting an extension have no right to receive an extension. The inspecting officer, or their designee, has discretion to grant or deny any extension for any lawful reason. If a written response to a request for an extension is not sent within three (3) days following its receipt by the inspecting officer, the request is deemed denied. If the inspecting officer, or their designee, grants an extension, the applicable time to file an action contesting the notice pursuant to Section 11-5-7(c)(3) is extended to the same date the extension is granted through. If the specific public nuisance to be abated is that of Section 11-5-5(h) (Dilapidated Buildings), the fifteen (15) day time period to abate the public nuisance is increased to at least thirty (30) days.

(3) *Pre-Abatement Contest.* Each recipient of a notice served pursuant to this Section 11-5-7(3) must commence an action pursuant to this Section 11-5-7(c)(3) in the Crawford County Circuit Court to prohibit the inspecting officer from abating the public nuisance, and must commence such action within fifteen (15) days from the date of delivery of the order, or any such claim will forever be barred. If contested, the Village will bear the burden of proof on the question of whether the recipient caused, permitted, or maintained a public nuisance. If such an action is timely commenced in the Crawford County Circuit Court, the Village must not abate the public nuisance during its pendency, including any applicable time for an appeal, unless authorized by a court or the recipient to abate the public nuisance. If the recipient prevails in the action, the court may order that the inspecting officer must not abate the particular public nuisance pursuant to the particular order contested, but the court must not order any compensatory or punitive damages or other equitable relief. The Village of Gays Mills elects not to be governed by Wis. Stats. Ch. 68, instead, this contest procedure must be employed as the exclusive remedy for an addressee of an order given pursuant to this Section 11-5-7(c). For clarity, the regular rules of civil procedure applicable to civil actions will apply to actions under this Section 11-5-7(c)(3).

(4) *Public Abatement.* Upon the expiration of the time to commence an action in the Crawford County Circuit Court pursuant to Section 11-5-7(c)(3), and if the public nuisance described in the order is not already abated, the inspecting officer, or their designee, may abate the public nuisance referred to in the order. For clarity, the inspecting officer, or their designee, may abate a public nuisance either by themselves or through any other available governmental entity, or by contract or other arrangement with a private person or entity. Also, for clarity, the inspecting officer, or their designee, is authorized to enter the premises containing the public nuisance for the purpose of abating the public nuisance, and such authority includes the ability to authorize other people to do the same.

(5) *Finality.* If an action is not commenced in the Crawford County Circuit Court pursuant to Section 11-5-7(c)(3), then the order is deemed to be lawful.

(6) *Additional Contest Rights.* The inspecting officer may permit additional persons than the recipient of an order served pursuant to Section 11-5-7(c) to employ the contest procedures of Section 11-5-7(c)(3) by so indicating in an order. Such additional persons will have the same contest rights and obligations as a recipient of an order.

(7) *Public Abatement Limitation Period.* The inspecting officer, or their designee, shall not abate any public nuisance under the authority of a given order unless it abates the public nuisance within six (6) months following the date by which a contest must be commenced under Section 11-5-7(c)(3). The six (6) month period will be extended for the duration of any legal proceeding challenging the order, including the applicable time for an appeal.

(d) Abatement by Court Action. If the inspecting officer 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 health, safety, peace, morals or decency, he or she may file a written report of his or her findings with the Village President who may cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Crawford County in accordance with the provisions of Chapter 823 of the Wisconsin Statutes.

(e) Other Methods Not Excluded. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the Village of Gays Mills or its officials in accordance with the laws of the State of Wisconsin.

(f) Severability. Any part of this Section 11-5-7 is severable. If any provision, section, sentence, clause, phrase, or portion thereof is held invalid, any other provision, section, sentence, clause, phrase, or portion will not be affected thereby. If the application of any provision, section, sentence, clause, phrase, or portion to any person or circumstance is held invalid, the application of other provisions, sections, sentences, clauses, or portions of such ordinance to other persons or circumstances will not be affected thereby. It is declared the intent of this Section 11-5-7, that the same would have been adopted had such invalid parts, if any, not been included herein.”

Section 2: This ordinance shall take effect upon passage and posting as provided by law.