

Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 125, thereof entitled Burning, Outdoor, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 125, Burning, Outdoor.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th Day of September, 2022 at:

Fall Creek Village Hall,
Fall Creek Post Office,
Co-op Credit Union

Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 148, thereof entitled Health & Sanitation, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 148, Health & Sanitation.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th Day of September, 2022 at:

Fall Creek Village Hall,
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Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 161, thereof entitled Junk Dealers, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 161, Junk Dealers.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

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Fall Creek Village Hall,
Fall Creek Post Office,
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Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 184, thereof entitled Nuisances, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 184, Nuisances.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th day of September, 2022 at: Fall Creek Village Hall,
Fall Creek Post Office,
Co-op Credit Union

Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 223, thereof entitled Garbage & Recycling, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 223, Garbage & Recycling.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th day of September, 2022 at:

Fall Creek Village Hall,
Fall Creek Post Office,
Co-op Credit Union

Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 238, thereof entitled Trees, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 238, Trees.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th day of September, 2022 at:

Fall Creek Village Hall,
Fall Creek Post Office,
Co-op Credit Union

Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire Chapter 256, thereof entitled Weeds, Yards, Lawn, and recreating it as part of Title 7, thereof entitled Health & Sanitation.

The Code of the Village of Fall Creek is hereby amended by repealing the entire Chapter 256, Weeds, Yards, Lawns.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th day of September, 2022 at:

Fall Creek Village Hall,
Fall Creek Post Office,
Co-op Credit Union

Village of Fall Creek
Public Notice of Possible Ordinance Amendment

Public Notice is hereby given that the Village Board of the Village of Fall Creek has conducted a first reading of:

AN ORDINANCE TO AMEND the Code of the Village of Fall Creek by repealing the entire
Chapter 125 Burning, Outdoor
Chapter 148 Health & Sanitation
Chapter 161 Junk Dealers
Chapter 184 Nuisances
Chapter 223 Garbage & Recycling
Chapter 238 Trees
Chapter 256 Weeds, Yards, Lawns
and amending and recreating them as Title 7, thereof entitled Health & Sanitation

The Code of the Village of Fall Creek is hereby amended by repealing the entire chapters as listed, and amending and recreating as Title 7, Health & Sanitation.

Date of First Reading: 09/12/2022

Date of Proposed Second Reading and Possible Adoption: 10/10/2022

Renee Roemhild, Village Clerk-Treasurer

Notice Posted this 13th Day of September, 2022 at:

Fall Creek Village Hall,
Fall Creek Post Office,
Co-op Credit Union

HEALTH AND SANITATION

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7.1 ARTICLE 1 - NUISANCES

7.1.1 Public Nuisances Prohibited.

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the Village of Fall Creek.

7.1.2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- A. PUBLIC NUISANCE -- A thing, act, occupation, condition, or use of property which shall continue for such length of time as to:
 - (1) Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public.
 - (2) In any way render the public insecure in life or in the use of property.
 - (3) Greatly offend the public morals or decency.
 - (4) Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

- B. PUBLIC NUISANCES AFFECTING HEALTH -- The following acts, emissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of "public nuisance" of this section:
 - (1) All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public.
 - (2) Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
 - (3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
 - (4) All stagnant water in which mosquitoes, flies or other insects can multiply.
 - (5) Privy vaults and garbage cans which are not fly tight.
 - (6) All noxious weeds and other rank growth of vegetation.
 - (7) All animals running at large.
 - (8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust, or other atmospheric pollutants within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Village.
 - (9) The pollution of any public well or cistern, stream, lake, canal, or other body of

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water by sewage, creamery or industrial wastes or other substances.

- (10) Any use of property, substances or things within the Village of Fall Creek emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- (11) All abandoned wells not securely covered or secured from public use.
- (12) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the Village.

C. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY -- The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace and safety coming within the provisions of "public nuisance" of this section:

- (1) All signs and billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.
- (2) All buildings erected, repaired, or altered within the fire limits of the Village of Fall Creek in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of buildings and structures within said district.
- (3) All unauthorized signs, signals, markings, or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as official traffic control devices or railroad signs or signals or which, because of their color, location, brilliance, or manner of operation, interfere with the effectiveness of any such device, sign, or signal.
- (4) All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (5) All limbs of trees which project over and less than 14 feet above the surface of a public sidewalk or street or less than 10 feet above any other public place.
- (6) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- (7) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary, or otherwise unfit for human use.
- (8) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- (9) All loud, discordant, and unnecessary noises or vibrations of any kind.

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- (10) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing, or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (11) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village, or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- (12) All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk.
- (13) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (14) Any unauthorized or unlawful use of property abutting on a public street, alley, or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (15) Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (16) All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in ~~§10.1.7 Chapter 227, Streets and Sidewalks, § 227-6.~~
- (17) The parking, storing, or abandoning of gasoline, oil, or petroleum transport vehicles on Village property within the Village limits for a period exceeding two hours. This subsection is not to be applied against any vehicle while it is being used to deliver or refill its product in the normal course of business.
- (18) Standing, sitting, loitering in or occupying any park or any cemetery in the Village of Fall Creek between the hours of 10:00 p.m. and 6:00 a.m., except for authorized persons, unless a permit is issued by the Village Clerk-Treasurer.
- (19) Parking or storing off street on property zoned residential a commercial vehicle (as defined in ~~Chapter 268 Title 16~~, Zoning) licensed or weighing over 12,000 pounds, a commercial vehicle with a trailer measuring 30 feet or more in length from the front of the vehicle to the rear of the trailer or construction equipment, except for such time as is reasonably necessary to load or unload such vehicle or in connection with rendering service to a building under construction, alteration or repair or in connection with the construction, maintenance or repair of public streets or utilities. This subsection does not apply to school buses on school property.
- (20) No owner or occupant of the premises shall cause a permanent and/or portable basketball hoop or similar play equipment to be set upon, used, or placed on any village street, alley, avenue, roadway, and/or right-of-way (including state highways or county roads that fall within the jurisdiction of the Village of Fall Creek), whereas, the permanent and/or portable basketball hoops may create a situation that is

unsafe or dangerous to vehicular traffic or to individuals who employ the use of same. In addition to this code, no person shall engage in any sport or exercise on any public village street, alley, avenue, roadway, and/or right of way (including state highways or county roads that fall within the jurisdiction of the Village of Fall Creek) in such a manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic. ~~A first offense of this nature will be cited \$15, a second offense \$25, and a third offense \$35.~~ Offenses of this nature will be cited as listed in the Village of Fall Creek Schedule of Fees.

- D. PUBLIC NUISANCES OFFENDING MORALS AND DECENCY -- The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of "public nuisance" of this section:
- (1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse, or gambling.
 - (2) All gambling devices and slot machines.
 - (3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by the ordinances of the Village of Fall Creek
 - (4) Any place or premises within the Village of Fall Creek where Village ordinances or state laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated.
 - (5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village.

7.1.3 Inspections; Notice; Abatement.

- A. Inspection of premises. Whenever complaint is made to the Village President that a public nuisance exists within the Village of Fall Creek, he shall promptly notify the Chief of Police, the Eau Claire City/County Board of Health, or Building Inspector, who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his 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-Treasurer.
- B. Summary abatement.
- (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 Chief of Police 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 24 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 Eau Claire City/County Board of Health, in case of health nuisances, and the Chief of Police, in other cases, shall cause the abatement or removal of such public nuisance.
- C. 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 public health, safety, peace, morals or decency, he shall file a written report of his findings with the Village President, who shall cause an action to abate such nuisance to be commenced in the name of the Village in the Circuit Court of Eau Claire County in accordance with the provisions of W.S.A. ch. 823.
- D. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village of Fall Creek or its officials in accordance with the laws of the State of Wisconsin.

7.1.4 Cost of Abatement.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

7.1.5 Violations.

- A. Findings. The Board of Trustees finds that any premises, including a manufactured home community, that has generated 3 or more responses from the police department for nuisance activities 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 Board of Trustees further finds that premises owners, and other parties conducting business activities upon the premises, that chronically fail to control the use of their property substantially interfere with the comfortable enjoyment of life, health, and safety of the community. The Board of Trustees therefore directs the chief of police and the Village attorney, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at premises at which nuisance activities chronically occur.
- B. Definitions. For the purposes of this section:
 - (1) "Chief of police" means the chief of the police department or the chief's designee. The chief's designee includes, but is not limited to, a commanding officer signing a

notice under §7.1.5.C.(1)(i) or (ii) or any other specifically named designee in any notice under this section.

- (2) "Manufactured home community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located.
- (3) "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by persons associated with a premises:
 - (a) Anything defined as a Public Nuisance, Public Nuisance Affecting Health, Public Nuisance Affecting Peace and Safety or Public Nuisance Offending Morals and Decency, as defined in §7.1.2.
 - (b) Excessive noise in violation of § 199-9.
 - (c) Maintaining a Disorderly Property in violation of § 199-12.1
- (4) "Nuisance activity" does not include activities, behaviors or conduct that results in a call for assistance made by the owner or occupant requesting law enforcement services related to any of the following:
 - (a) "Domestic abuse," as defined in s. 813.12(1)(am), Wis. Stats.
 - (b) "Sexual assault," as described in ss. 940.225, 948.02, and 948.025, Wis. Stats.
 - (c) "Stalking," as described in s. 940.32, Wis. Stats.
- (5) "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or subject to license in the operation of a business upon the premises.
- (6) "Person associated with a premises" means the premises owner, operator, manager, resident, occupant, guest, visitor, patron or employee or agent of any of these persons.
- (7) "Premises" shall mean a single tax parcel, as determined by the Eau Claire County Wisconsin tax lister.

C. Procedure.

- (1) Notices.
 - (a) Whenever the chief of police determines that the police department has responded to 3 or more nuisance activities that have occurred at or originated from a premises during a 30-day period, the chief of police may notify the premises owner or other responsible party in writing that the premises is a nuisance. For purposes of this section, each separate and distinct incident shall constitute a nuisance activity, and 2 or more separate and distinct incidents occurring on the same day shall be counted separately. This notice shall contain:
 - i) The street address or legal description sufficient for identification of the premises.

- ii) A description of the nuisance activities that have occurred at the premises.
 - iii) A statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, or referred for collection, and that the owner or other responsible party may be cited under §7.1.5.C.(1)(c).
 - iv) Examples of nuisance abatement measures.
 - v) A statement that the premises owner or other responsible party shall within 10 days either respond to the chief of police with an acceptable, written course of action to abate the nuisance activities at the premises or file an appeal pursuant to §7.1.5.E.(1).
- (2) Whenever the chief of police determines that modification of an accepted written course of action is necessary to abate nuisance activities at the premises, the chief of police shall notify the premises owner or other responsible party in writing that the written course of action must be modified. This notice shall contain:
- (a) The street address or legal description sufficient for identification of the premises.
 - (b) A description of the nuisance activities that have occurred at the premises that require modification of the accepted written course of action.
 - (c) A copy of the previously-accepted written course of action.
 - (d) A statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, or referred for collection, and that the owner or other responsible party may be cited under §7.1.5.F.(1)(d).
 - (e) A statement that the premises owner or other responsible party shall within 10 days, respond to the chief of police with an acceptable, modified written course of action to abate the nuisance activities at the premises.
- (3) A notice under par. (1) shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. If the premises owner or other responsible party cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's or other responsible party's usual place of abode or regular business in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing or conducting business 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 or other responsible party as identified by the records of the commissioner of assessments, to the appropriate licensing authority or the commissioner of neighborhood services.
- (4) Upon receipt of the nuisance premises notice or a demand for modification notice,

- the premises owner or other responsible party shall respond within 10 days to the chief of police with a written course of action or modified written course of action outlining the abatement actions the premises owner or other responsible party will take in response to the notice. Upon review of the written course of action or modified written course of action, the chief shall accept or reject the proposed course of action.
- (a) If the proposed course of action is accepted, the chief of police shall inform the owner or other responsible party of same and permit the owner or other responsible party 45 days to implement the accepted course of action. If the premises owner or other responsible party has implemented the accepted written course of action within 45 days, no further action by the department may be taken except that if nuisance activity continues, the chief may request the premises owner or other responsible party to modify the accepted written course of action.
 - (b) If the premises owner or other responsible party fails to respond, proposes a course of action that is rejected by the chief of police, or fails to implement an accepted written course of action, the chief shall notify the premises owner or other responsible party that the cost of future enforcement may be assessed as a special charge against the premises, or referred for collection, and that the owner or other responsible party may be cited under §7.1.5.F.(1)(d).
- (5) The chief of police may calculate the cost of police services and refer the cost to the Village attorney or Village Clerk for subsequent nuisance activities occurring at the premises within one year of the date of a notice under §7.1.5.C.(1) provided such nuisance activity occurs under one of the following circumstances:
- (a) 13 days after notice was given pursuant to §7.1.5.C.(1)(a) if the premises owner or other responsible party fails to respond or proposes a course of action that is rejected by the chief of police.
 - (b) 45 days after a proposed course of action was accepted by the chief of police and the premises owner or other responsible party failed to properly implement the accepted course of action.
 - (c) After the nuisance premises determination is affirmed after appeal if an appeal is timely filed pursuant to §7.1.5.E.(1).
- (6) The chief of police shall notify the premises owner or other responsible party of the decision to refer the cost of police services by copy of the chief's cost referral letter to the Village attorney or Village Clerk for collection and to the appropriate licensing authority. Delivery of this notice shall be made as set forth in §7.1.5.C.(1)i.i.i. The cost referral letter shall contain:
- (a) The street address or legal description sufficient for identification of the premises.
 - (b) A statement that the chief of police has referred the cost of enforcement to the

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Village attorney or Village Clerk and to the appropriate licensing authority, with a concise description of the nuisance activities and the relevant sections of the code.

- (c) A notice of the premises owner's or other responsible party's right to appeal pursuant to §7.1.5.E.(1).
- (d) A statement that each subsequent incident of nuisance activity may be deemed a separate violation.
- (e) A statement that whenever a premises owner or other responsible party has been billed, on 3 or more separate dates, for the costs of enforcement within one year, he or she may be issued a citation in the amount listed in the Village of Fall Creek Schedule of Fees ~~of not less than \$1,000 nor more than \$5,000~~ after notification by the chief of police that the premises is a chronic nuisance due to the premises owner's or other responsible party's failure to abate the nuisance activities.

D. Cost Recovery.

- (1) Upon receipt of a cost referral letter from the chief of police pursuant to §7.1.5.C.(4), the Village Clerk shall charge any premises owner found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. All costs so charged are a lien upon such premises and may be assessed and collected as a special charge. The Village Board shall establish a reasonable charge for the costs of administration and enforcement of this section and adopt a fee schedule for such charges.
- (2) Upon receipt of a cost referral letter from the chief of police pursuant to §7.1.5.C.(4), the Village attorney shall initiate a collections action against any other responsible party found to be in violation of this section for the costs of enforcement, including administrative costs, in full or in part. The Village attorney shall establish a reasonable charge for the costs of administration and enforcement of this section based on the fee schedule adopted by the Village Board.

E. Appeal.

- (1) Appeal of a determination that a premises is a nuisance under §7.1.5.C.(1)(a) shall be submitted in writing to the Village Clerk within 30 days from the date of the nuisance determination notice. Such appeal shall be administered pursuant to the terms of Wis. Stat. Ch. 68.
- (2) Appeal of the subsequent cost referral by the chief of police pursuant to §7.1.5.C.(4) shall be submitted in writing to the Village Clerk within 30 days from the date of the nuisance determination notice. Such appeal shall be administered pursuant to the terms of Wis. Stat. Ch. 68.

F. Chronic Nuisance Premises.

- (1) Whenever a premises owner or other responsible party has been notified that a

nuisance exists at his or her premises and has been billed for 3 or more separate nuisance activities within a one-year time period for the costs of enforcement, the chief of police may designate the premises as a chronic nuisance premises. Delivery of this notice shall be made as set forth in §7.1.5.C.(2). The chronic nuisance premises letter shall contain:

- (a) The street address or legal description sufficient for identification of the premises.
 - (b) A statement that the premises owner or other responsible party has been billed, for 3 or more separate nuisance activities, for the costs of enforcement within a one-year time period, along with a concise description of the nuisance activities, bills and relevant sections of the code.
 - (c) A statement that any subsequent incident of nuisance activity shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the nuisance activity.
 - (d) A statement that each subsequent incident of nuisance activity may be deemed a separate violation.
- (2) Any person failing to abate nuisance activities after receiving notice under §7.1.5.C.(1)(a) shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the nuisance activity. Upon default of payment, the premises owner shall be imprisoned in the county jail or house of correction for a period of not less than 40 days nor more than 90 days.

G. Eviction or Retaliation Prohibited.

- (1) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant complained to the chief of police about nuisance activities on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the chief of police constitutes unlawful retaliation under this subsection. This presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. Notwithstanding the foregoing, a tenant's lease agreement or periodic tenancy may be terminated for a failure to pay rent; committing nuisance activity as defined in §7.1.5.B.(3); for the commission of waste upon the premises; violating the terms and conditions of the lease agreement or periodic tenancy or as otherwise provided in ch. 709, Wis. Stats., and ch. ATCP 134, Wis. Adm. Code. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.

(2) Any person violating par. a shall be subject to a forfeiture as listed in the Village of Fall Creek Schedule of Fees ~~of not less than \$100 nor more than \$2000~~ for each violation and in default of payment thereof, be imprisoned in the county jail or house of correction for a period of not less than 4 days nor more than 80 days.

H. Subsequent Notice of Nuisance Activity. Nothing in this section shall prevent or prohibit the chief of police from issuing or reissuing a notice under §7.1.5.C.(1)(a) regarding subsequent nuisance activity at a premises.

7.1.6 Penalties.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in this Chapter, or if no penalty is specified, then as set forth in Title 1, Schedule of Deposits per Village Code §1.1.20.C. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.

7.2 ARTICLE 2 – TREES, WEEDS, YARDS & LAWNS

7.2.1 Tree Trimming and Sanitation

A. Trees to be kept trimmed.

Trees standing in and upon any public street or place or upon any lot or land adjacent thereto shall be pruned and trimmed by the owner or owners or occupants of the property on or in front of which such trees are growing so that the lowest branches projecting over the public street or alley will provide a clearance of not less than 14 feet and a clearance of not less than 10 feet over any other public place and so that no dead, broken or otherwise hazardous branches shall be likely to fall and do injury to the public. Any tree not trimmed as herein provided shall be deemed hazardous.

B. Hazardous and infected trees.

Any tree or part thereof, whether alive or dead, which the Director of Public Works shall find to be infected, hazardous or a nuisance so as to endanger the public or other trees, plants or shrubs growing within the village or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon which such tree or part thereof is located. The Director of Public Works shall give written notice to said owner to remedy the situation, which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 14 days, as determined by the Director of Public Works on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim said tree within the time limit, the Director of Public Works shall cause the tree to be removed, treated or trimmed and shall report the full cost thereof to the Village Clerk-Treasurer, who shall thereupon enter such cost as a special charge against the property.

C. Cottonwood and box elder trees.

No person shall plant or maintain within the Village of Fall Creek any female tree of the species *Populus deltoides*, commonly called the "cottonwood," or any tree commonly called the "seed-bearing box elder" or "*Acer negundo*," which may now or hereafter become infested with box elder bugs, and such trees are hereby declared a nuisance. Any person having any such trees on his premises shall cause the same to be removed. If any owner shall fail to remove any such tree within 30 days after receiving written notice from the Director of Public Works, the Director shall cause the removal of such tree and report the full cost thereof to the Village Clerk-Treasurer, who shall place such charge upon the next tax roll as a special charge against the premises.

D. Planting of certain trees restricted.

No person shall hereafter plant any Catalpa, Chinese Elm, White Poplar, Lombardy Poplar or any fruit or nut tree in or upon any public street, parkway, boulevard or other public place within the Village of Fall Creek unless he shall first secure written permission from the Director of Public Works, who shall not approve any such planting if in his opinion said tree will constitute a nuisance to the public or adjoining property owners or interfere with the safety of

the public or the operation of any sewer or water system. The Director of Public Works shall cause the removal of any tree planted in violation of this subsection.

E. Violations and penalties.

The penalty for violation of any provision of this article shall be as provided in Title 1, Schedule of Deposits, per Village Code §1.1.20.C.

7.2.2 Dutch Elm Disease

A. Public nuisances declared.

The following are hereby declared to be public nuisances wherever they may be found within the Village of Fall Creek:

- (1) Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus *Ceratocystis Ulmi* (Buisman) Morsau or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylurcopinus rufipes* (March.).
- (2) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material, from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

B. Nuisances prohibited.

No person, firm or corporation shall permit any public nuisance defined in §7.2.2.A. of this article to remain on any premises owned or controlled by him within the Village of Fall Creek.

C. Inspections; right of entry.

- (1) The Village Board shall inspect or cause to be inspected all premises and places within the village at least twice each year to determine whether any public nuisance as defined in §7.2.2.A. of this article exists thereon and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the Dutch elm disease fungus or any elm bark-bearing material reported or suspected to be infested with the elm bark beetle.
- (2) The Village Board shall have the authority to enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this article.

D. Abatement of Dutch elm disease nuisances.

- (1) Whenever the Village Board shall find with reasonable certainty on examination or inspection that any public nuisance as defined in this article exists within the Village of Fall Creek, the Board shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease fungus or the insect pests or factors known to carry such disease.
- (2) Before abating any nuisance on private premises or in any terrace strip between the lot line and the curb, the Village Board shall proceed as follows:
 - (a) If the Village Board shall determine that danger to other elm trees from said nuisance is not imminent because of elm dormancy, it shall make a written

report of its findings to the Board of Public Works, which shall proceed as provided in W.S.A. s. 27.09.

(b) If the Village Board shall determine that danger to other elm trees within the village is imminent, it shall notify the owner or abutting owner of the property on which such nuisance is found, in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the village, that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice, unless the Board shall find that immediate action is necessary to prevent the spread of infection. If the owner fails to comply with the notice within the time limit, the Director of Public Works shall cause the abatement thereof.

(3) No damage shall be awarded to the owner for destruction of any elm tree, elm wood or elm material or any part thereof pursuant to this section.

E. Spraying of elm trees.

(1) Whenever the Board shall determine that any elm tree or elm material within or near the village is infected with Dutch elm disease fungus, it may cause to be sprayed all high-value elm trees within a one-thousand-foot radius thereof with an effective elm bark beetle destroying concentrate, provided that such spraying shall be performed prior to July 15 or after October 15 of any year.

(2) Before causing the spraying of any elm trees on private property in accordance with this section, the Director of Public Works shall notify the owner as provided in §7.2.2.D.(2) of this article.

F. Assessment of abatement and spraying costs.

(1) The entire cost of abating any public nuisance as defined in §7.2.2.A. of this article or of spraying any elm tree in accordance with §7.2.2.E. may be charged to and assessed against the parcel or lot upon which such tree stands in accordance with W.S.A. ss. 66.60(16) and 27.09. The cost of abating any such nuisance or spraying any elm tree or part thereof which is located in or upon any park or public grounds shall be borne by the village.

(2) The Village Board shall keep strict account of the costs of work done under this article and shall report monthly to the Village Clerk-Treasurer all work done for the land, lots, parts of lots or parcels of land and the amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against said parcels or lots in the same manner as other special taxes.

G. Transporting elm wood.

No person, firm or corporation shall transport within the Village of Fall Creek any bark bearing elm wood or material without first securing the written permission of the Village Board.

H. Interference with Village Board prohibited.

No person, firm or corporation shall prevent, delay or interfere with the Village Board or any of

its agents or village employees while they are engaged in the performance of duties imposed by this article.

I. Violations and penalties.

Any person, firm or corporation which shall violate any of the provisions of this article shall, upon conviction thereof, forfeit ~~a fee as listed in the Village of Fall Creek Schedule of Fees not less than \$10 nor more than \$100, together with the costs of prosecution, and, in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not exceeding 60 days.~~

J. Boulevard Tree Selection and Planting Guide ~~follows:~~ See Appendix

7.2.3 Weeds, Yards and Lawns

A. Office of Weed Commissioner created.

The office of Weed Commissioner for the Village of Fall Creek is established pursuant to W.S.A. s 66.0517.

B. Weed Commissioner appointed.

Such office shall be appointed by the Village President annually, and compensation of \$150 shall be paid to the Weed Commissioner annually.

C. Objectionable weeds.

Every owner or occupant of any premises in the village shall destroy any growth of weeds on such premises. The term "objectionable weeds" shall mean Canada or other thistles, leafy spurge, field bindweed (commonly called "creeping Jenny"), Ambrosia trifida (commonly called "giant ragweed"), Arubuoisia artemasifolia (commonly called "common ragweed"), burdock, Rhus radicans, sometimes called "Radicans toxicodendron," Rhus Toxicodendren, Toxicodendren radicans (commonly called "poison ivy"), Urtica dioica (commonly called "stinging nettle"), or any other noxious weed. This section shall also apply to the boulevard in front of or along any premises.

D. Village action.

After 10 days from the publishing of a notice given as stated in this chapter, the village may destroy any weeds not so destroyed and assess the expense therefore against such property as a special tax thereon.

E. Destruction; posted notice.

The Village Clerk shall, annually, on or before May 15, cause to be posted in the Village Hall or be published in the police newsletter, if available, to the effect that objectionable weeds are to be destroyed as provided in this chapter, and that if the same are not destroyed, action will be taken pursuant to this chapter.

F. Application; village-owned property.

It shall be the duty of the Weed Commissioner to apply the provisions of this chapter to the village-owned property.

G. Special notices.

Special or additional notices upon any property or occupant may at any time be served personally or by mail requiring the destruction of weeds, in which case all of the provisions of this chapter shall likewise apply.

H. Enforcement dates.

The provisions of this chapter shall be enforced between April 1 and October 31.

I. Yards and lawns.

- (1) In this section, “yard” means an open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line and/or street line. The measurement of the yard shall be the maximum horizontal distance between the lot line and the building or structure.
- (2) Yards shall be provided with adequate lawn, groundcover or vegetation, hedges or bushes equal to at least 10% of the total lot area. All areas which are not covered by vegetation shall be treated to prevent dust or the blowing or scattering of dust particles into the air. All trees, bushes or vegetation which overhang a public entrance, street or sidewalk shall be properly trimmed to avoid obstructions of the view and movement of vehicles and pedestrians.
- (3) Every owner or occupant of any premises having a lawn shall cut and maintain such lawn at a height not exceeding seven inches on such premises as well as the boulevard in front of or along such premises.
- (4) Every owner of any vacant lot that does not have a lawn shall be required to cut and maintain such lot as required by the Weed Commissioner.
- (5) New residential construction completed by August 1 must have the lawn completed by October 1. New residential construction completed after August 1 must have the lawn completed by June 30 of the succeeding year.
- (6) After 10 days from the posting of a notice given as stated in this section, the village may cut or maintain any premises or boulevard not complying with the ordinances and assess the expenses therefore against such properties as a special tax thereon.
- (7) The Village Clerk shall, annually, on or before May 15, cause to be posted in the village to the effect that lawns are required to be cut and maintained as provided in this section, and that if such lawns are not cut and maintained, action will be taken pursuant to this section. At no time thereafter shall lawn exceed seven inches in height.
- (8) Special or additional notice upon any property notice or occupant may be made and served personally or by mail prior to action taken by the village to cut the lawn on any premises or boulevard which is not in compliance with the provisions of this chapter.
- (9) Storage of Firewood. If stored in the open, firewood shall be stacked in piles not to

exceed five (5) feet in height. Firewood piles shall be allowed in the rear yard only, which by definition shall be to the rear of the principal building on a given lot, subject to the further requirement that no woodpile shall be placed within the side or rear yard setbacks for the lot in question under the Village Zoning Code. For corner lots, no wood piles shall be permitted in the side yard adjoining the cross street and situated between the rear line of the principal building and the front property line facing the street designated for street address purposes for that lot, nor shall wood piles be placed closer to the street than the setback line from the cross street as established for that lot under the Village Zoning Code. The terms "front yard", "principal building", "rear yard" and "side yard" shall have the definitions set forth in §16.1.3. The term "cross street" shall mean the street adjoining a corner lot other than the street designated for street address purposes for that lot.

- (10) This section shall be enforced by the Weed Commissioner or, if needed, by the City-County Health Department.

J. Waivers.

The Weed Commissioner may waive the provisions of this chapter, in whole or in part, when in that person's opinion, such waiver shall not detract from the aesthetics of an area, create a nuisance or be otherwise objectionable.

K. Violations and penalties.

Any owner or occupant who violates any of the provisions of this chapter shall, upon conviction, be subject to forfeiture as listed in the Village of Fall Creek Schedule of Fees ~~of not more than \$500 for each offense~~. Each day during which any violation continues shall be deemed to constitute a separate offense.

7.3 ARTICLE 3 - BURNING, OUTDOOR

7.3.1 Outdoor burning prohibited.

No person, firm or corporation shall build any outdoor fire within the corporate limits of the Village of Fall Creek, except as set forth in §7.3.2.

7.3.2 Exceptions.

- A. Outdoor cooking over a fire contained in a device or structure designed for such use is permitted.
- B. Recreational fires (such as a campfire located at a residence for the purpose of recreation and personal enjoyment) shall be comply with the following requirements:
 - (1) Fires should be located a minimum of 25 (twenty-five) feet from any structure or any other combustible material or 10 (ten) feet from a lot line.
 - (2) Fires shall be contained in a permanent or portable noncombustible receptacle made and designed for such purpose. A permanent receptacle can be anything from a pre-built outdoor fireplace to one that is built by the homeowner using brick, stone, rock or cement. A portable device can have a maximum diameter of 42 (forty-two) inches placed upon a secured non-combustible surface, or constructed of a non-combustible material and placed on a non-combustible surface.
 - (3) Fires shall not be started or allowed to continue burning when wind speeds exceed 15 (fifteen) miles per hour, nor when wind will cause smoke, combustibles or other materials to be carried by the wind toward any building or other combustible or flammable materials, nor any time the Fire Chief has deemed conditions are too hazardous for burning.
 - (4) Fuel shall consist of dry material only, and it shall not be ignited with flammable or combustible liquids. Material may not include leaves, recyclable items, yard waste, rubbish, garbage, trash or any material made or coated with rubber, plastic, leather or petroleum-based materials. The material may not contain any flammable or combustible liquids. The material may not be larger than the receptacle, nor hang out over the sides.
 - (5) Adequate fire suppression equipment, such as shovels, fire extinguishers or a water hose or water container shall be present at all times.
 - (6) Fires shall be attended at all times by at least one responsible person of age 18 (eighteen) or older.
 - (7) Tenants must notify and obtain written permission from the property owner prior to initiating any recreational fire.
- C. Controlled burning of grass or similar vegetation for environmental management purposes, with the prior written approval of the Fire Chief, may be permitted.
- D. Ceremonial campfires or bonfires, with prior written approval of the Fire Chief may be permitted.

- E. Other occasions of desirable outdoor burning not specified by this section, but not as an alternative to refuse removal or disposal for which other methods are available, may be granted single occasion approval as in Subsections B and C.
- F. Whenever approval and special permit are granted by the Fire Chief under §7.3.2.B.(3), §7.3.2.C., and §7.3.2.D., the permit may specify and be conditioned on observance of safety restrictions and insurance requirements set forth therein.

7.3.3 Fire Chief Authorized to Prohibit Fires.

The Fire Chief is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

7.3.4 Burning on Streets.

No materials may be burned upon any street, curb, gutter, or sidewalk.

7.3.5 Liability.

Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by their fire.

7.3.6 Violations and Penalties.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Title 1, Schedule of Deposits, Village Code §1.1.20.C.. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.

7.4 ARTICLE 4 - HEALTH & SANITATION, GARBAGE & RECYCLING, JUNK

7.4.1 Health & Sanitation

A. Adoption of county and state provisions.

The regulation of health and ~~safety regulation~~ standards, unless and until further amendment or revision, shall be left entirely up to the County of Eau Claire and the State of Wisconsin. The regulations of the County of Eau Claire and State of Wisconsin are hereby incorporated as part of this Code by reference.

7.4.2 Garbage & Recycling

A. Authority and Purpose.

The Village Board shall have the authority pursuant to Wis. Stat. § 66.0405 to contract with one or more service providers to remove ashes, garbage, and rubbish from the Village of Fall Creek. This chapter is adopted for the purpose of promoting and preserving the health and sanitation in the Village through the regulation of the storage, collection, transportation and disposition of garbage, rubbish, brush, and ashes in the Village.

7.4.3 Definitions.

As used in this chapter, the below defined terms shall have the meanings as follow:

- A. "Biomedical Waste" means any solid or liquid waste which may present a threat of infection to humans, including non-liquid tissue, body parts, blood, blood products, and body fluids from humans and other primates; laboratory and veterinary wastes which contain human disease-causing agents; and discarded sharps. This definition also includes: used, absorbent materials saturated with blood, blood products, body fluids, or excretions or secretions contaminated with visible blood; absorbent materials saturated with blood or blood products that have dried; and non-absorbent, disposable devices that have been contaminated with blood, body fluids or secretions or excretions visibly contaminated with blood, but have not been treated by an approved method.
- B. "Bulky Waste" means discarded items that are larger than three (3) feet in any dimension, and/or heavier than fifty (50) pounds in weight, and/or otherwise will not fit within an empty Cart, including but not limited to items such as mattresses and box springs, indoor/outdoor furniture, swing sets, plastic swimming pools, large toys, bicycles, fish aquariums, sofas, chairs, tables, carpets and other similar items.
- C. "C&D Materials" means discarded materials generally considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, including such debris from construction of structures at a site remote from the construction or demolition project site. The term includes rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project; clean cardboard, paper, plastic, wood, and metal scraps from a construction project; except as provided in by

applicable laws, unpainted, non-treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non-treated wood pallets provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the commingling of wood scraps or pallets with other solid waste; and de minimis amounts of other non-hazardous wastes that are generated at construction or demolition projects, provided such amounts are consistent with best management practices of the construction and demolition industries. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris.

- D. "Cart" means a rollout receptacle provided by Contractor for Residential Solid Waste or Recyclables with a capacity of 35, 65 or 95 gallons, constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting, and having a tight-fitting lid.
- E. "Commercial Premises" shall mean those properties located on property zoned commercial by the Village Zoning Code, except those properties in commercial zoning districts which are Residential Premises.
- F. "Commercial service" shall mean Garbage removal occurring on a scheduled basis to Commercial Premises.
- G. "Contractor" shall mean a company or individual licensed to provide residential, commercial, or temporary garbage, waste or rubbish pickup services in the Village.
- H. "Curbside" means the location that is within at least four (4) feet of the curb, paved surface of the public road, closest accessible public right-of-way, or other such location designated by the Contractor that will provide a safe and efficient accessibility to the Contractor's personnel and vehicles for the placement of Carts, Yard Waste and Bulky Waste for collection pursuant to the terms of this Ordinance. For purposes of this Ordinance, public road or public right-of-way means a road owned and maintained by the Village or special district, or a road on private property for which an easement has been granted to the public and such road is constructed and maintained to a standard whereby access is available by the Contractor's vehicles.
- I. "Customer" means the owner and/or occupant of a Residential or Commercial Premises.
- J. "Garbage" means all kitchen and table food waste, animal or vegetative waste that is attendant with or results from the storage, preparation, cooking or handling of food materials.
- K. "Hazardous Waste" means any and all (a) hazardous substances, pollutants, and contaminants, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, solid or hazardous wastes, as defined by the Resource Conservation and Recovery Act, as amended, hazardous materials, as defined by the Hazardous Materials Transportation Act, as amended, toxic substances, as defined by the Toxic Substances Control Act, as amended, toxic chemicals or extremely hazardous substances, as defined by the Emergency Planning and Community Right-To-Know Act, as

amended, hazardous air pollutants, as defined by the Clean Air Act, as amended, and hazardous substances, as defined by the Clean Water Act, as amended; (b) any other toxins, chemicals, wastes, substances, or materials which pose an unreasonable risk to human health or the environment, or which are regulated under any applicable federal, state, or local laws rules, or regulations, or any other material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time is harmful, toxic, or dangerous, or otherwise ineligible for disposal at the intended disposal site utilized by Contractor; (c) any material that requires other than normal handling, storage, management, transfer or disposal; or (d) any other material that may present a substantial endangerment to public health or safety, may cause applicable air quality or water standards to be violated by the normal operation of the disposal site to be utilized by the Contractor, or because of its size, durability or composition cannot be disposed of at such disposal site or has a reasonable possibility of otherwise adversely affecting the operation or useful life of such disposal site.

- L. "Recyclables" shall mean the following materials: aluminum containers; bi-metal containers (i.e., containers made from a combination of steel and aluminum); corrugated cardboard or other containerboard; glass containers; magazines and other materials printed on similar paper; newspaper and other materials printed on newsprint; office paper; plastic containers #1 and #1 (e.g., milk jugs, laundry detergent bottles, soda and water bottles); and steel containers (tin cans). Recyclables specifically does not include: electronics; lead acid batteries; major appliances; used oil filters; waste oil and waste tires.
- M. "Residential Premises" means a dwelling within the Village occupied by a person or group of persons, including single family homes and duplexes.
- N. Residential Premises shall be further defined as those units classified as residential with the Public Service Commission of Wisconsin Water Utility Reference Manual.
- O. "Residential service" means garbage removal occurring on a weekly scheduled basis provided to a Residential Premises.
- P. "Residential Solid Waste" means all Garbage and Rubbish generated by a Residential Premises, excluding automobile parts, tires, C&D Materials, Recyclables, Yard Waste, Bulky Waste, White Goods, Hazardous Waste, or any Unacceptable Waste or materials as determined by the Contractor.
- Q. "Rubbish" means non-putrescible solid waste consisting of paper, rags, cardboard, cartons, wood, rubber, plastics, glass, crockery, metal cans or other such waste
- R. "Special Waste" means solid wastes that can require special handling and management, including but not limited to, white goods, waste tires, used oil, lead-acid batteries, construction and demolition debris, ash residue, yard trash, biological wastes, and mercury-containing devices and lamps.
- S. "Temporary service" shall mean garbage pickup by special arrangement where a roll-off container is provided on a temporary basis.

- T. "Unacceptable Waste" means waste and materials including: (a) Hazardous Waste, Biomedical Waste, Special Waste, tires, paints, paint solvents, unemptied aerosol cans, compressed gas cylinders, large engine parts, small engines containing oils or fuels, chemicals, large glass panes, large tree debris, stumps, ammunition of any type, dead animals larger than 10 lbs, and firearms, (b) waste of which the acceptance and handling by Contractor would cause a violation of any permit condition, legal or regulatory requirement, substantial damage to Contractor's vehicles, equipment or facilities, or present a substantial danger to the health or safety of the public or Contractor's employees, and (c) waste which is or may be prohibited from disposal at the applicable disposal site by local, federal or state law, regulation, rule, code, ordinance, order, permit or permit condition.
- U. "White Goods" means inoperative and discarded refrigerators, ranges, washers, water heaters, freezers, and other similar domestic and commercial large appliances.
- V. "Yard Waste" means vegetative matter resulting from landscaping maintenance or land clearing operations at Residential Premises and includes materials such as leaves and grass clippings.

7.4.4 Charges to Customers for Service.

- A. Initiation of Services. Garbage hauling services for Residential Premises shall be optional, at the discretion of each Resident. To initiate garbage collection services as provided in this Ordinance, each resident shall contact the Village Clerk's Office and fill out documentation provided by the Village Clerk's office. Residents shall abide by this Ordinance and any other rules and regulations provided by the Village Clerk's Office as to the terms and conditions of service.
- B. Residential: Regularly scheduled residential service shall be charged to the user by the Village as a monthly fee, in an amount approved annually by the Village Board.
- C. Temporary Suspension of Service: Customers wishing to temporarily suspend service may do so by making request to the Clerk's Office no later than Tuesday of the week they wish service to be suspended. There shall be no charge for suspension, but there shall be a reinstatement fee as determined by the Village Board.
- D. Late Fees: A late payment charge of one percent (1%) per month will be added to bills for residential services not paid within twenty (20) days of issuance.
- E. Nonpayment:
 - (1) Nonpayment of charges may result in cancellation of service and/or placement of delinquent amount on the tax bill.
 - (2) Charges levied in accordance with this section shall be a debt due to the Village and shall be a lien upon the property served. If not promptly paid, the debt shall be deemed delinquent and may then be recovered by civil action in the name of the Village against the property owner, the person receiving the collection services, or both. If delinquent services are not received by November 1st of the calendar year, a ten percent (10%) charge shall be added to the delinquent bill. Thereafter, if

payment is not received on or before November 1st, the delinquent bill will be forwarded to the county for placement on the succeeding tax roll.

- F. Commercial and Temporary: The Contractor shall bill the customer directly for commercial service and temporary service.

7.4.5 Compliance With Applicable Laws, Rules, and Ordinances Required.

It is and shall be a condition in and of the permit granted under this chapter that the license permit holder shall comply with the ordinances of the village, the rules, regulations, and orders of the local, county, and state Boards of Health, and the statutes of Wisconsin relating to collection, hauling, and disposal of garbage and of other waste, the removal and hauling of which is permitted pursuant to this Ordinance.

7.4.6 Permit Types, Fees and Term.

- A. Contractors who collect solid waste or recyclables in the Village shall obtain necessary municipal and state permits, licenses and approvals prior to collecting any materials in the Village.
- B. Village Permit. Contractors must obtain a Village of Fall Creek solid waste hauling permit prior to collecting solid waste within the village. The term for each permit shall be from July 1st of each year until June 30th of the following year.
- C. The annual permit fee shall be as ~~follows:—~~listed in the Village of Fall Creek Schedule of Fees.
 - ~~(1) Residential service: three hundred dollars (\$300.00)~~
 - ~~(2) Commercial service: one hundred dollars (\$100.00)~~
 - ~~(3) Temporary service: fifty dollars (\$50.00) for each vehicle used—~~
- D. As a condition to any residential service permit issued hereunder, the contractor shall enter into a garbage pickup services contract with the Village, in a form acceptable to the Village, in the Village’s sole and absolute discretion. Said services contract shall be properly executed and delivered to the Village prior to the contractor engaging in any residential solid waste collection services.

7.4.7 Permit-Limited Number to be issued.

No more than one (1) residential services hauling permit shall be issued for any one (1) permit period. The number of commercial service and temporary service permits are not limited and shall be issued in the discretion of the Village Board.

7.4.8 Rate Increase-Village Board Approval Required.

No garbage hauler shall increase rates charged customers without first having obtained the approval of the Village Board.

7.4.9 Vehicle-Covers Required-Dropping of Material Prohibited.

Vehicles used in the performance of garbage or refuse hauling in the Village must have metal bodies, and be of such construction that there will be no dripping, dropping, or scattering of

material there-from along streets, highways, or alleys of the village. Each vehicle must have a cover approved by the Board of Health and the same must be used and employed at all times in conformance with regulations of the Board of Health relating thereto.

7.4.10 Vehicle-Parking on Street Prohibited-Exception.

Trucks, wagons, or other vehicles containing garbage must be kept off the streets of the Village except for the purpose of collecting and transporting garbage in the most direct route to the dumps and must not be parked on any street, alley, or public place except for the reasonable time required in the collection of garbage thereby.

7.4.11 Vehicle-Parking Prohibited Within Two Hundred Feet of a Dwelling-Exception.

Except as provided in § 7.4.13, no wagon, truck, or other vehicle used in collecting or hauling garbage or other waste shall be parked on any alley, street, or public place within the Village within two hundred feet (200') of any dwelling in any residential zone unless such wagon, truck, or other vehicle shall have first been thoroughly cleaned and steamed.

7.4.12 Regulations Generally.

- A. Contractors and their employees are required to follow the regular walks for pedestrians while on private property and may not “short cut” across the lawns or gardens in making collections or in crossing to neighbor’s premises.
- B. Extra care must be taken in loading and transporting so that none of the material collected is spilled or left either on private property or on the streets or alleys.
- C. Collections must be made as quietly as possible especially in the early morning hours.
- D. Contractors must respond and take care of complaints where garbage has not been collected upon the regularly scheduled trip.

~~D-E.~~ Garbage receptacles may not be stored in the required front yard.

7.4.13 Residential-Size Cart Regulations.

- A. Residential Solid Waste. Residents shall place all Residential Solid Waste in a Cart for weekly pickup, which shall be placed Curbside at or before 6:00 a.m. on the date designated by the Village for weekly collection, then removed from the public right of way within 24 hours. Residents shall only place Residential Solid Waste in designated Residential Solid Waste Carts. Residents who desire special or more frequent service shall contact and contract directly with the Contractor for such special services.
- B. Recyclables. Residents shall place all Recyclables in a Cart for weekly pickup, which shall be placed Curbside at or before 6:00 a.m. on the date designated by the Village for bi-weekly collection then removed from the public right-of-way within 24 hours. Residents shall only place Recyclable in properly designated Recyclable Carts. Residents who desire special or more frequent service shall contact and contract directly with the Contractor for such special services.
- C. Carts.
 - (1) Each Residential Premises receiving residential services shall be furnished Carts by

Contractor. Carts shall at all times remain the property of Contractor. Residents of the Residential Premises shall properly use and safeguard the Contractor's Carts. Contractor shall maintain the Carts in reasonably good condition, normal wear and tear excepted. Each Customer has the care, custody and control of any Cart furnished by Contractor and such Customer shall have the sole responsibility, and shall be liable, for all loss and damage, normal wear and tear excepted, to such Cart and for the cleanliness and safekeeping of such Cart. Contractor shall have the right to charge Customers for the cost of repair or replacement of Carts, including delivery fees, if such repair or replacement is required as a result of abuse, misuse or damage, fire, or theft. Customers may request one or more additional Carts from Contractor for an additional volume of collection services. Customers shall pay Contractor for each additional Cart, including the delivery of such Carts, and Contractor shall receive payment from the Village for the additional Service to be provided to such Customer, as if such additional service constituted an additional Residential Premises, at the then applicable rate of compensation payable to Contractor as contemplated by this Ordinance.

- (a) Carts shall be placed at Curbside for collection service as described herein. Carts shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians.

7.4.14 Violation-Penalty.

The penalty for violation of any provision of this chapter shall be as provided in [the Village of Fall Creek Schedule of Fees Chapter 1](#).

7.4.15 Junk Dealers

- A. License and permit required.

It shall be unlawful for any person, firm, partnership or corporation to operate as a junk dealer or automobile junk dealer or to travel from place to place within the village limits of the Village of Fall Creek for the purpose of buying, selling or trading in junk or for the purpose of accumulating automobile junk or rags, old iron, brass, copper, zinc, tin and other metal, bottles, paper, bagging or other material or any object or material known as "junk" or to accumulate the same for private use within the corporate limits of the Village of Fall Creek without first obtaining a license therefor as hereinafter provided. No premises may be maintained in the process of such operation except as authorized by permit issued by the Village of Fall Creek.

- B. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- (1) AUTOMOBILE JUNK -- Any unoperable, disassembled, abandoned or unlicensed automobile in whole or in parts thereof, which such automobile or part thereof is accumulated for storage or is stored outside of any building.
- (2) AUTOMOBILE JUNK DEALER -- A person, firm, partnership or corporation who or which accumulates or stores any junked automobile or part thereof outside of any building.

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- (3) JUNK -- Rags, old iron, brass, copper, zinc, tin or other metal, bottles, paper, bagging or other material.
- (4) JUNK DEALER -- A person, firm, partnership or corporation which engages in, keeps, conducts or carries on a business for the purchase and sale of rags, old iron, brass, copper, zinc, tin and other metal, bottles, paper, bagging or other material or any object or material known as "junk."

C. License fee.

The license fee hereunder shall be ~~\$100 per year or part thereof~~ as listed in the Village of Fall Creek Schedule of Fees. A separate license shall be required for each shop or yard maintained on separate premises, the permit to be issued by the Village of Fall Creek and signed by the Village Clerk-Treasurer and Village President, and shall specify the quantity and manner of storing such junk or automobile junk.

D. License term, specifications and transfer.

The license year shall run from July 1 to June 30. Applications for licenses hereunder shall be filed, together with the license fee, with the Village Clerk-Treasurer. All licenses issued hereunder shall be signed by the Village President and the Village Clerk-Treasurer and shall limit the area and specify the locations of the premises licensed. Regulations specifying the manner of storing junk and automobile junk shall be adopted by the Village Board and shall be printed on the reverse of such license. No license hereunder shall be transferred or the area in which operations are authorized to be conducted changed without the consent of the Village Board.

E. License revocation or suspension.

Any license issued hereunder may be revoked or suspended at any time by the Village Board of the Village of Fall Creek after a hearing at which it has been found that the licensee has failed or refused to comply with the provisions of this chapter. Such hearing may be held by the Village Board upon its own motion or upon the complaint, in writing, duly signed and verified by a complainant. Such complaint shall state the nature of the alleged failure to comply with the provisions hereof. A copy of the complaint, together with a notice of the hearing, shall be served upon the licensee not less than 10 days previous to the date of the hearing.

F. Storage regulations.

- (1) Unbaled paper and rags shall be stored at all times inside enclosed buildings.
- (2) Junk and automobile junk shall be stored at all times as follows:
 - (a) When stored outside of enclosed buildings:
 - i) Fenced from view of persons walking or riding upon adjacent sidewalks or streets, said fences being of standard design, construction and finish and certified as having been approved by the Building Inspector.
 - ii) Neatly arranged in rectangular rows, all materials being easily accessible, such rows being separated according to type of material being contained therein.

(b) When stored inside enclosed buildings:

- i) In compliance with the Wisconsin State and Village of Fall Creek Building Codes.
- ii) In compliance with applicable provisions of law and ordinance.

G. Violations and penalties.

Any person violating any of the provisions hereof shall, on conviction thereof, forfeit the amount listed in the Village of Fall Creek Schedule of Fees ~~not exceeding \$25~~ for each violation, together with the costs of prosecution, and, in default of the payment of such forfeiture and costs, shall be imprisoned in the county jail of Eau Claire County for a term of not more than 30 days. Each part of such automobile or junk involved as set forth in this chapter shall constitute a separate offense. Each separate day upon which a provision hereof shall be violated shall constitute a separate offense. The village shall also have the right to remove and store or dispose of such offensive material at the owner's expense upon serving him 20 days' notice, in writing, by certified mail.