

- B. 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.
- C. 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.
- D. All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Privy vaults and garbage cans which are not flytight.
- F. All noxious weeds and other rank growth of vegetation.
- G. All animals running at large.
- H. 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.
- I. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- J. 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 stench 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.
- K. All abandoned wells not securely covered or secured from public use.
- L. 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.

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:

- A. 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.
- B. 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.¹

¹ Editor's Note: See Chapter 118, Building Construction and Fire Prevention.

- C. 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.
- D. 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.
- E. 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.
- F. All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- G. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.
- H. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.
- I. All loud, discordant and unnecessary noises or vibrations of any kind.
- J. 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.
- K. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village², 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.
- L. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- M. 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.
- N. 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.
- O. Repeated or continuous violations of the ordinances of the Village or laws of the State of Wisconsin relating to the storage of flammable liquids.

²Editor's Note: See Ch. 227, Streets and Sidewalks.

- P. All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in Chapter 227, Streets and Sidewalks, § 227-6.
- Q. 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. **[Added 8-21-1972]**
- R. 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. **[Added 7-3-1973]**
- S. Parking or storing off street on property zoned residential a commercial vehicle (as defined in Chapter 268, 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. **[Added 11-9-1995]**
- T. 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. **[Added 6-13-2002]**

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:

- A. 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.
- B. All gambling devices and slot machines.
- C. 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.³

³ Editor's Note: See Ch. 154, Intoxicating Liquor and Fermented Malt Beverages

- D. 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.
- E. 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.

§ 184-3. 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.⁴
- 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.⁵
- 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

⁴Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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. 823.⁶

- 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.

§ 184-4. 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.

§ 184-5. Violations. [Amended 4-16-2020]

- 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 sub. 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:

⁶Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- 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 §184-2.
 - b. Excessive noise in violation of § 199-9.
 - c. Maintaining a Disorderly Property in violation of § 199-12.
- (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:
 - b. The street address or legal description sufficient for identification of the premises.
 - c. A description of the nuisance activities that have occurred at the premises.

- 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 subsection F.
 - e. Examples of nuisance abatement measures.
 - f. 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 subsection E.
- (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 subsection F.
 - 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 subsection F.
- (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 par. (1) provided such nuisance activity occurs under one of the following circumstances:
- a. 13 days after notice was given pursuant to subsection C (1) 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 subsection E.
- (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 subsection C (2). 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 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 subsection E (2).
- 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 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 subsection 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 subsection 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

subsection 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 subsection 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 subsection 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 par. 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 sub. B; 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 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 subsection C (1)a regarding subsequent nuisance activity at a premises.

§ 184-6. Penalties. [Amended and renumbered 4-13-2020]

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 Chapter 1, General Provisions, § 1-19 of this Code. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.