

## CITY OF OCONTO FALLS ORDINANCE NO. 24-010

### AN ORDINANCE AMENDING NUISANCES CHAPTER 348 OF THE MUNICIPAL CODE AS FOLLOWS:

#### THE COMMON COUNCIL OF THE CITY DOES ORDAIN AS FOLLOWS:

No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within the City.

#### § 348-2. Determination of public nuisance.

A public nuisance is a thing, act, occupation, condition, or use of property which continues for such length of time as to:

- A. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Greatly offend the public morals or decency.
- D. 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.
- E. Cause or allow repeated violations of City ordinances related to Chapter **348**, Nuisances, or Chapter **365**, Peace and Good Order.  
[Added 8-10-2021 by Ord. No. 21-001]

#### § 348-3. Public nuisances affecting health.

The following acts, omissions, places, conditions, and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances within the definition of § **348-2** of this chapter:

- A. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- 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 materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.
- D. Standing water at any point on any property within the City, except water impounded on farm land for agricultural purposes.
- E. Privy vaults and garbage cans which are not fly tight.
- 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 City limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensitiveness or to threaten or cause substantial injury to property in the City.
- 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 within the City of property, substances, or things emitting or cause 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 City.
- K. Any use of property which causes any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the City.
- L. The construction and operation of a tank or tanks for the storage of tallow in the City whereby nauseous, offensive, or unwholesome odors are allowed to be emitted. The Police Department, after the necessary fact finding, shall make a report to the Council on such emission of nauseous, offensive, or unwholesome odors. If a majority of the Council adopts such report, it may order the commencement of an action in the name of the state on the relation of the City for an injunction to prevent the nuisance or may order the commencement of an action for the abatement or removal thereof.<sup>[1]</sup>

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 348-4. 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 or safety within the provisions of § 348-2 of this chapter:

- 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 and structures erected, repaired, or altered within the City in violation of the provisions of any ordinances relating to materials and manner of construction.
- 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 use or display of fireworks, except as provided by state law and City ordinances.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 254, Fireworks.*

- F. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use.
- G. All loud, discordant, and unnecessary noises or vibrations of any kind.

- H. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by City ordinance, 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.
- I. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk.
- J. 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 or people to gather, thereby obstructing traffic and free use of the streets or sidewalks.
- K. All exhibitions within the City of a motion picture, show, or other presentation at an outdoor drive-in theater which motion picture, show, or other presentation in whole or in part depicts nudity, sexual conduct, or sadomasochistic abuse, in such manner that the material is visible from any public street, sidewalk, thoroughfare, or other public place where it may be observed by minors or unconsenting adults and which, due to its content, creates traffic and parking problems on City streets or creates violations of the City of Oconto Falls Code. For the purposes of this subsection, a motion picture rating "X" by the film industry shall be prima facie evidence that the film in whole or in part depicts nudity, sexual conduct, or sadomasochistic abuse and is therefore harmful to minors and in violation of this chapter.<sup>[2]</sup>

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- L. All use or maintenance of building exteriors or surrounding premises which limits the use or enjoyment of neighboring property or which causes or tends to cause diminution of the value of the property of others in the neighborhood in which such premises is located by reason of:
  - (1) Exterior storage of scrap lumber, junk, trash, or other debris, including, without limitation of enumeration, discarded objects or equipment such as motor vehicles, furniture, appliances, farm or manufacturing equipment, building materials, or litter.
  - (2) Exterior patchwork, repair, or reconstruction that results in a multi-textured or multicolored effect or appearance not consonant with the decor, architectural design, or aesthetics of the rest of such building.
  - (3) Commercial Buildings In General Commercial District (C-1) Zoning Ch 480-8 windows on the first Floor shall not be obscured or block more than 50% of the window by merchandise, signs may cover up to 25%. Any other non-transparent materials are prohibited from blocking, or covering the first-floor windows either from interior or exterior. Violations are subject to forfeiture and requirement to be removed, subject to ongoing penalty for non-compliance.
- M. Any placement or diverting of any unreasonable amount of snow or ice onto the property of another which is so situated as to endanger the public health or safety or creates an unnecessary physical or financial burden.

## § 348-5. Abatement of public nuisances.

- A. Summary abatement.
  - (1) Notice to owner. If the inspecting officer determines that a public nuisance exists within the City and that there is a danger to public health, safety, peace, morals, or decency, notice may be served by the inspecting officer or an authorized deputy on the person causing, maintaining, or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained, or permitted, and a copy of such notice shall be posted on the premises. Such notice shall direct the person causing, maintaining, or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not less than 24 hours or greater than seven days and shall state that unless such nuisance is so abated,

the City will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing, maintaining, or permitting the nuisance, as the case may be.

(2) Abatement by City. If the nuisance is not abated within the time provided or if the owner, occupant, or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

B. Abatement by court action. If the inspecting officer determines that a public nuisance exists on private premises but the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals, or decency, the inspector or sanitarian shall file a written report of such findings with the Mayor, who, upon direction of the Council, shall cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court of Oconto County in accordance with the provisions of Ch. 823, Wis. Stats.

C. Court order. Except where necessary under Subsection A, an officer hereunder shall not use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

D. Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with state law.

## § 348-6. 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 City shall be collected as a debt from the owner, occupant, or person causing, permitting, or attaining 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.

## § 348-7. Enforcement.

The Chief of Police, Health Officer, Administrator - Clerk/Treasurer or designee, and Building Inspector shall enforce those provisions of this chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this chapter to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does in fact exist.

## § 348-8. Violations and penalties.

Any person who shall violate any provision of this chapter shall, upon conviction, be subject to a penalty as provided in § 1-9 of this Code together with the costs of prosecution and remedy of the violation.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

## § 348-9. Chronic Nuisance Premises

(1) Findings. The City of Oconto Falls Common Council finds that certain premises within the City receive and require more than the general, acceptable level of police services and Building Inspector, place an undue and inappropriate burden on City of Oconto Falls taxpayers, and constitute public nuisances. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods. The vast majority of properties with chronic nuisance activity are non-owner occupied. This ordinance is enacted to encourage premises owners to recognize their responsibility to ensure that activities

occurring on their premises conform to the law and do not unduly burden the City's police and Building Inspector's resources and to provide a mechanism for the City to take action against premises owners who fail to ensure premises they own do not require a disproportionate level of police and Building Inspection resources to be devoted to such premises. This ordinance provides a method for Police and the Building Inspector to use in a progressive manner when working with property owners to abate nuisance activities occurring on their premises. Therefore, the Common Council determines that the City will charge the owners of such premises with the costs associated with abating nuisance activity at premises where nuisance activities chronically occur. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them. This section does not affect a Premises owner's duty to comply with the Fair and Open Housing Laws under Chapter 238 of the City of Oconto Falls Ordinances (COFO)(State Statutes § 106.50, § 66.1011), nor does it affect a Premises owner's duty to comply with all other laws governing residential tenancies which are contained in Chapter 704 of the Wisconsin Statutes, Chapter ATCP 134 of the Wisconsin Administrative Code.

(2) Definitions. For the purposes of this section:

(a) "Chronic Nuisance Premises" means a premises that meets any of the following criteria:

1. Is a Premises which has generated three (3) or more calls for police services that have resulted in Enforcement Action for Nuisance Activities on three (3) separate days within a sixty (60) day period. Two or more separate and distinct enforcement actions for nuisance activity occurring on the same day shall be counted separately. Three (3) or more calls for police services resulting in Enforcement Action for Nuisance Activities includes Enforcement Action taken against any person associated with the Premises while at or within two hundred (200) feet of the Premises for a Nuisance Activity;
2. Is a Premises for which police have responded to two or more nuisance activities of the types identified in the first two rows of the Nuisance Activities table in Subsection (2)(d)1. Below, that have occurred at the Premises during a six (6) month period, and probable cause exists that the nuisance activities are associated with the Premises;
3. Is a Premises which has generated a number of cases from the Building Inspector for Nuisance Activities from separate inspections occurring within a one (1) year period, with such calls resulting in Enforcement Action based on the following:
  - a. Five (5) Building Inspector cases with one resulting in Enforcement Action, or
  - b. Four (4) Building Inspector cases with two resulting in Enforcement Acton, or
  - c. Three (3) Building Inspector cases all resulting in Enforcement Action; or
4. Is a Premises for which Municipal Court or Oconto County Court of law has determined that, pursuant to a search warrant request, probable cause exists that manufacture, distribution or delivery of a controlled substance has occurred on or in association with the Premises within thirty (30) days prior to the date of the search warrant application; or
5. Is a Premises which has had one (1) Enforcement Action associated with the Premises resulting from the manufacture, delivery or distribution of a controlled substance(s) as defined in Chapter 961 of the Wisconsin Statutes.

(b) "Chronic Nuisance Premises Notice" means the notice issued by the Chief of Police and/or the City Administrator, or Building Inspector and referred to in Subsection (3)(a) of this ordinance.

(c) "Enforcement Action" means any of the following:

1. The physical arrest of an individual(s);
2. The issuance of a citation for a law violation;

3. Referral of charges by the police, City Administrator or the Building Inspector to the City Attorney or District Attorney for prosecution for Nuisance Activities.
- (d) "Nuisance Activities" means any of the following activities, behaviors or conduct:
1. Life and Firearms Crimes.

Nuisance Activities	COFO/Wis. Stat.
Crimes against life and bodily security	§ 940.01—940.32 Wis. Stats., except as provided in Subd. 2
Crimes involving illegal possession or use of firearms	§ 941 & 948.60, Wis. Stats.

2. Chronic Nuisance Crimes.

Nuisance Activities	COFO /Wis. Stat.
Selling, offering for sale or giving away of any intoxicating liquors or fermented malt beverages without a license	Sec. 292-3 COFO; § 125.04(1) Wis. Stats.
Any act of aiding and abetting	§ 939, Wis. Stats
Damage to property	Sec. 365-11, COFO; § 943.01, Wis. Stats.
Trespass to land	§ 943.13, Wis. Stats.
Criminal trespass to dwelling	§ 943.14, Wis. Stats.
Unlawful trespass	Sec. 365-20, COFO
Theft	§ 943.20, Wis. Stats.
Arson	§ 943.02, Wis. Stats.
Robbery	§ 943.32, Wis. Stats.
Receiving or concealing stolen property	§ 943.34, Wis. Stats.
Indecent exposure	Sec. 365-1, COFO; § 944.20(1)(b), Wis. Stats.
Keeping a place of prostitution	§ 944.34, Wis. Stats.
Prostitution	§ 944.30, Wis. Stats.
Soliciting prostitutes	§ 944.32, Wis. Stats.
Pandering	§ 944.33, Wis. Stats.
Illegal gambling	§ 945.02, Wis. Stats.
Resisting or obstructing an officer	Sec. 365-23, COFO; § 946.41, Wis. Stats.
Disorderly conduct	Sec. 365-1, COFO; § 947.01, Wis. Stats.
An act of harassment	Sec 365-22,365-25 COFO;§ 947.013, Wis. Stats.
Mistreating/Cruelty to animals	Sec. 168-15, COFO; § 951.02, Wis. Stats.
Possession, manufacture, distribution or delivery of a controlled substance or related offenses	Sec 365-24 COFO; Ch. 961, Wis. Stats.
Maintaining a drug dwelling	§ 961.42, Wis. Stats.
Obstructing a street or sidewalk	Sec. 348-4 COFO
Depositing rubbish	Sec. 348-3,413-6,413-15,278-17 COFO
The disturbing the peace, production or creation of noises, damaging property	Sec. 365-11, COFO
Unlawful use of emergency telephone number	Sec. 365-22, COFO
Discharge of a firearm	Sec. 365-7, COFO
The possession, sale or use of synthetic marijuana	Sec. 365-24,365-18 COFO
Owning, keeping or harboring a vicious animal	Sec. 168-8, COFO
Loitering for the purposes of prostitution	Sec. 365-26, COFO
Violations of the Fire Prevention Code	Ch. 250 COFO; CH SPS 314 Fire Prevention
Possessing an open container which contains alcohol beverages or consuming alcohol beverages upon any public street	Sec. 365-14 COFO
Violations of the Minimum Housing Code	Ch. 278, COFO

- (e) "Nuisance Activity" does not include activities, behaviors, or conduct those results in a call for assistance made by any person requesting law enforcement services related to any of the following:

1. Domestic abuse as defined in § 813.12(1)(am), Wis. Stat.
  2. "Sexual assault," as described in §§ 940.225, 948.02, 948.025, Wis. Stats.
  3. "Stalking" as described in § 940.32, Wis. Stat.
  4. Enforcement of a restraining order as defined under Chapter 813, Wis. Stat.
  5. Any incident or behavior involving an individual at risk as defined in § 813.123, Wis. Stat.
  6. Any matters involving a child in need of protective services as defined under § 48.235(4), Wis. Stat.
- (f) "Person" means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying or using property in the City of Oconto Falls.
- (g) "Person Associated With" means any person who, whenever engaged in a Nuisance Activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit a premises or person present on a premises, including without limitation any officer, director, customer, agent, employee, or any independent contractor of a property, person in charge, or owner of a premises.
- (h) "Person in Charge" means any person, in actual or constructive possession of a Premises including but not limited to an owner or occupant of Premises under his or her ownership or control.
- (i) "Chief of Police" means the City of Oconto Falls Police Department Chief of Police or designee.
- (j) "Building Inspector" means the City of Oconto Falls Building Inspector or designee.
- (k) "City Administrator" means the City of Oconto Falls City Administrator or designee.
- (l) "Premises" means a place of abode, a residence, a house or multiple dwelling unit for one (1) or more persons, including lodging houses, hotels, motels and tourist rooming houses, and associated common areas, yards and parking lots. In the case of multiple dwelling units, "Premises", as used in this section, may consist of any single unit providing complete, independent living facilities for one (1) or more persons, including provisions for living, sleeping, eating, cooking and sanitation.
- (3) Procedure.
- (a) Notices.
1. Upon finding that a Premises meets the definition of a Chronic Nuisance Premises, the Chief of Police, City Administrator or the Building Inspector may declare the Premises a Chronic Nuisance Premises. The Chief of Police or the Building Inspector shall provide written notice of his or her determination to the Premises owner identified by the City of Oconto Falls Assessor's records for that Premises, and a courtesy copy to the City Administrator and Alder of the affected district. The Chronic Nuisance Premises Notice ("CNP Notice") shall be deemed delivered if sent either by first class mail to the Premises owner's last known address or delivered in person to the Premises owner and the courtesy copy to the City Administrator and Alder at the Common Council office or by electronic mail. If the Premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the Premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age, or a competent adult currently residing there and who shall be informed of the contents of the CNP Notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the CNP Notice is sent by first class mail to the last known address of the owner as identified by the records of the City Assessor. The CNP Notice shall contain the following information:
    - a. Street address, parcel number or a legal description sufficient to identify the Premises.

- b. A statement that the owner shall immediately notify the Chief of Police or Building Inspector of any change in address to ensure receipt of future notices.
  - c. A statement that the owner shall, within ten (10) days of receipt of the CNP Notice, respond to the Chief of Police or the Building Inspector either with an appeal or to propose a written course of action that is intended to abate the Nuisance Activities. The written course of action must include specific steps to abate the nuisance activities and shall propose a timeline by which the steps will be completed. The Statement shall direct the Premises owner to schedule a meeting with the Chief of Police and/or Building Inspector to discuss the Nuisance Activity and the Premises owner's intent regarding abatement. The Chief of Police or the Building Inspector may accept, reject or work with the owner to modify the proposal to abate the Nuisance Activities.
  - d. A statement that the Premises owner shall, when appropriate, consider and implement alternatives to eviction when formulating a written course of action to abate the nuisance.
  - e. A statement that the Premises owner shall at all times comply with the fair housing requirements contained in Ch 238 of the Fair and Open Housing Ordinance when considering any action against a tenant based upon a CNP Notice.
  - f. A statement that the Premises owner may be subject to a forfeiture action with a penalty of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for permitting a Chronic Nuisance Premises and may be subject to imprisonment for failure to pay such forfeiture.
  - g. A statement that if the Premises is a non-owner-occupied residential Premises, the Premises owner, site property managers and on-site staff, shall provide the Police Chief, City Administrator and/or Building Inspector written course of action with deadline for improvements to be completed, approved by the Police Chief, City Administrator, within forty-five (45) days of issuance of the CNP Notice.
- (b) 1. If the owner responds to the CNP Notice pursuant to Subdivision (a) with a written course of action that is intended to abate the nuisance activity, the Chief of Police, City Administrator or the Building Inspector may accept, reject or work with the owner to modify the proposal. The plan is acceptable if it can reasonably be expected to result in abatement of the Nuisance Activities described in the CNP Notice within sixty (60) days. If the proposed course of action is accepted, the Chief of Police, City Administrator or Building Inspector shall permit the owner or other responsible party forty-five (45) days to implement the accepted course of action. Implementation of the written course of action shall commence within forty-five (45) days of the date the premises was declared a chronic nuisance.
- 2. Premises owners shall be counseled regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive written course of action that considers alternatives to eviction in situations where eviction is not the sole remedy available to abate the nuisance activity.
  - 3. Premises owners shall be counseled regarding use of available resources, including community service providers, when Nuisance Activity associated with the Premises is not caused or contributed to by the direct actions of a tenant.
  - 4. If the Premises owner meets with the Chief of Police, City Administrator and/or the Building Inspector and presents an acceptable written course of action and implements the written course of action to abate the Nuisance Activities occurring on, or in association with, the Premises, the Police Department and/or Building Inspector will delay further enforcement of this ordinance, including cost recovery under Subsection (4)(a). The Premises owner must provide proof of implementation of the



proposed written course of action to the Chief of Police, City Administrator and/or the Building Inspector in order for delay of further enforcement of this ordinance.

5. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police, City Administrator and/or the Building Inspector will reinstitute enforcement of this ordinance and the Premises owner will be sent a Change In Status Letter. This letter will document the Police Department and/or Building Inspector's efforts to contact and/or obtain cooperation of the owner.
  6. Failure by the Premises owner to respond within ten (10) days as directed in this subdivision shall result in a forfeiture of one thousand dollars (\$1,000) plus court costs and fees.
- (c) Failure to Respond. Whenever the Chief of Police or the Building Inspector determines that any of the following have occurred:
1. A Premises owner has failed to respond to the CNP Notice in Subsection (3)(a), or
  2. A Premises owner has failed to submit a written course of action to abate the nuisance activities at the Premises, or
  3. Enforcement action for an additional Nuisance Activity has occurred at a Premises for which Notice has been issued pursuant to Subdivision (a) and this Enforcement Action has occurred not less than fifteen (15) days after the CNP Notice has been issued, or
  4. A course of action submitted pursuant to Subsection (3)(c)1. has not been completed, Then the Chief of Police, City Administrator and/or the Building Inspector may calculate the cost of enforcement to abate this and any subsequent Nuisance Activities and may refer such cost to the City Administrator so that the cost may be billed to the Premises owner. The Chief of Police and/or the Building Inspector shall notify the Premises owner of the decision to refer the cost of enforcement to the City Administrator Delivery of this notice, along with a copy of the Chief's or the Building Inspector's referral letter to the City Administrator, shall be made as set forth in Subdivision (a). The notice shall contain:
    - a. The street address or legal description sufficient for identification of the premises.
    - b. A Statement that the Chief of Police and/or the Building Inspector has referred the cost of enforcement to the City Administrator with a concise description of the Nuisance Activities and the relevant sections of the ordinances.
    - c. Notice of the premises owner's right to appeal pursuant to Subsection (5).
- (d) Each subsequent incident of enforcement action for Nuisance Activity shall be deemed a separate violation and costs will continue to be assessed pursuant to Subsection (3)(d)4 until the nuisance is abated pursuant to Subsection (10).

(4) Penalties and Remedies.

- (a) Cost Recovery. The Chief of Police and the Building Inspector shall keep an accurate account of the cost of enforcement and shall report it to the Finance Director. The City Administrator shall establish a reasonable charge for the costs of enforcement of this section. Upon receipt of a notice from the Chief of Police or the Building Inspector issued pursuant to Subsection (2)(b), the City Administrator shall charge any Premises owner found to be in violation of this section the costs of enforcement in full or in part. Such costs shall be billed to the Premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall be a lien on such Premises and may be assessed and collected as a special charge pursuant to Wis. Stat. § 66.0627. A one hundred dollar (\$100) administrative fee shall be added to the cost of enforcement charged to the benefited premises any time the premises is declared a chronic nuisance premises.

- (b) Suspension of Cost Recovery. If after the receipt of a billing notice from the City Administrator the Premises owner develops an acceptable plan and initiates action to abate nuisance activities occurring on the Premises, the Chief of Police and/or the Building Inspector will suspend further enforcement of this ordinance. The Premises owner is still responsible for any enforcement costs incurred prior to the Premises owner's submitting an abatement plan, including the administrative fee. If the Premises owner ceases to cooperate with the efforts to abate the Nuisance Activities, the Chief of Police and/or the Building Inspector will reinstitute enforcement of this ordinance after sending the Premises owner a Change In Status letter.
  - (c) Forfeiture. A forfeiture action may be commenced by the Office of the City Attorney for each Enforcement Action for Nuisance Activity occurring after the Premises has been declared a Chronic Nuisance Premises. The forfeiture shall be not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) for each enforcement action. Upon default of payment, the Premises owner may be imprisoned in the county jail for a period of not more than ninety (90) days.
- (5) Appeal. Appeal of the determination of the Chief of Police and/or the Building Inspector pursuant to either Subsection (3)(a), or the action of the City Administrator imposing special charges pursuant to Subsection (4)(a) against the Premises, may be submitted in writing to the Administrative Review Board in accordance with the procedures set forth in Section 9.49 of these ordinances. If no appeal is filed by the Premises Owner within 15 days following receipt of the notice provided for in Subsections (3)(a) and 4(a), the right to review and hearing shall be voided as untimely.
- (6) Eviction or Retaliation Prohibited.
- (a) 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, City Administrator or the Building Inspector about Nuisance Activities on the landlord's premises. It shall be unlawful for a landlord or any person acting as an agent for the landlord, to intimidate or actively discourage a tenant and/or persons associated with a tenant, from calling the police to report Nuisance Activity associated with a 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 or the Building Inspector constitutes unlawful retaliation under this subsection. Such presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. 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 Subsection (2)(d); 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 Wis. Stat. Ch. 704, and Wis. Admin. Code Ch. Ag. 134. 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.
  - (b) "Good cause" as used in this subsection means that a landlord must show good cause for their actions, other than one related to or caused by the operation of this section.
  - (c) Penalty. Any person violating Subsection (6) shall be subject to a forfeiture of not less than \$100 nor more than \$2000 for each violation and upon failure to pay said forfeiture, may be imprisoned in the county jail for a period of not more than ninety (90) days.
- (7) Summary Abatement. The Building Inspector is authorized to cause the abatement, including summary abatement, of any nuisance found on any Premises, according to the procedure prescribed in Sec. 27.05(3).
- (8) Injunction. This section may be enforced by injunction. Neither an action for injunction or for a forfeiture hereunder is subject to the notice requirements.
- (9) Abatement In Accordance With State Law. Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State.

- (10) When Nuisance Is Deemed Abated. The public nuisance created by a Chronic Nuisance Premises shall be deemed abated when no Enforcement Action to address Nuisance Activities occurs for a period of six (6) consecutive months from the date stated on the notice declaring the Premise a Chronic Nuisance Premises and/or there are no building inspection cases generated for a period of six (6) consecutive months from the date stated on the notice declaring the Premises a Chronic Nuisance Premises
- (11) Severability. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.
- (12) Report. The Chief of Police may provide update to the Common Council on the following:
  - (a) How many Premises were declared Chronic Nuisance Premises.
  - (b) How many Premises that were declared Chronic Nuisance Premises were abated and the length of time it took for abatement to occur.
  - (c) How often the Cost Recovery provision was used and the dollar amount collected under this provision.

This amendment shall become effective upon the date of passage.

Adopted by the Common Council on the 10th day of September, 2024.

Offered by Council Person: McDonald  
Seconded by Council Person: Bahrke  
AYES: 6 NAYS: 0 ABSENT: 0

Adopted: \_\_\_\_\_

Mayor Clint Braun

Attest: \_\_\_\_\_

City Administrator Peter Wills