

TITLE V

Chapter 18

PUBLIC HEALTH HAZARDS

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18.01 BURNING RUBBISH

The burning of garbage, rubbish or other refuse in incinerators or otherwise, is hereby prohibited.

18.02 REMOVAL OF SNOW AND ICE

- (1) The owner, occupant or person in charge of every building and / lot within the City of Blair, fronting upon a public sidewalk, shall remove all snow and ice from said sidewalk as soon as practical. Failure or neglect to comply with the provisions of this subsection may result in having the City perform said services and charge them to the occupant and property owner of the premises.
- (2) It shall be unlawful to remove ice in any form or quantity from Lake Henry.
- (3) Any person violating this subsection shall be fined as follows:
 - (A) First offense – a municipal fine of twenty-five dollars (\$25.00);
 - (B) Second offense – a municipal fine of fifty dollars (\$50.00);
 - (C) Third or subsequent offense – a civil forfeiture of fifty dollars (\$50.00).
- (4) Drilling holes in the ice for purposes of ice fishing is *not* a violation of this ordinance.

18.03 PRIVIES AND CESSPOOLS

All privies and cesspools are hereby prohibited and any such privies and cesspools in existence on adoption of this Ordinance shall be removed and abated. Failure to remove or abate such use may result in the City performing such services and the assessment of costs for services being charged to the occupant and property owner.

18.04

GARBAGE AND REFUSE DISPOSAL

- (1) No person shall dispose of garbage or refuse in any area of the City so as to become a health hazard or public nuisance. This includes, but is not limited to, leaves, grass clippings and other materials that may affect the storm sewers by being placed in the gutters and roads.

18.05

PENALTIES

- (1) Any person violating Sections 18.01, 18.03 and 18.04 shall forfeit not less than Fifty and 00/100 Dollars (\$50.00) or more than One Thousand and 00/100 Dollars (\$1,000.00) for each violation.
- (2) Failure to pay the forfeiture will result in having the sum added as a special assessment against the property affected.

18.06

JUNKED VEHICLES

- (1) Defined: A vehicle no longer able to transport persons or property upon a highway is a junked vehicle, regardless of whether or not it is licensed.
- (2) Purpose: Sound public policy requires the City to conduct its affairs and provide rules and regulations to preserve health and safety and to abate nuisances. Junked vehicles have potential as a health and safety hazard and must be abated as a nuisance.
- (3) Junked Vehicles Prohibited: It shall be unlawful to accumulate or store any junked vehicle or parts thereof outside of any building on any real estate within the City.
- (4) Penalty: Any person violating this Section shall forfeit not less than Fifty and 00/100 Dollars (\$50.00) nor more than One Thousand and 00/100 Dollars (\$1,000.00) for each violation.
- (5) Abatement:
 - (A) In addition to the penalty imposed by subsection (4), the City may order abatement.
 - (B) If abatement is ordered, the City Clerk shall notify the owner by certified mail to abate the nuisance.
 - (C) The owner shall have twenty (20) days from the date of receipt of the notice to abate the nuisance.
 - (D) Failure to do so within the time specified shall entitle the City to abate the nuisance and charge the costs to the owner.
 - (E) Unpaid costs and charges shall be added to the tax roll as unpaid taxes and assessments per Chapter 57.

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

- (1) PUBLIC NUISANCE. A public nuisance is a thing, act, occupation, condition or use of property which shall continue 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.

- (2) PUBLIC NUISANCES AFFECTING HEALTH. The following acts, omissions, 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 subsection (1) of this section:
 - (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 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 fly-tight.
 - (F) All noxious weeds and other rank growth of vegetation.
 - (G) All animals running at large.

(H) Air pollution.

- 1.) Declared a Nuisance. The escape of any smoke, cinders, fly-ash, soot, fumes, dust, noxious gases, or other waste discharged fuel burning equipment, internal combustion engine, premises, open fire, stack or chimney, or from any other source which results in air pollution to a degree which causes injury, detriment, nuisance or annoyance to any considerable number of persons, or to the public, or which endangers the comfort, repose, health or safety of any such persons, or the public, or which causes or has a natural tendency to cause injury or damage to business or property is a public nuisance.
- 2.) Persons Liable. All persons owning, operating or in charge or control of any equipment who shall cause or permit or participate in any violation of this paragraph either as proprietors, owners, lessees, tenants, managers, superintendents, janitors, engineers, firemen, or otherwise shall be individually and collectively liable for any penalties imposed for violation of this paragraph.
- 3.) Enforcement. Acting under the Chief of Police, the members of the Police department, while on duty, shall investigate complaints and observe violations under this paragraph and institute actions against all persons violating any of the provisions of this paragraph.
- 4.) Advisory Board. An advisory board, consisting of the members of the City of Blair Police and Ordinance Committee, shall act as advisors to the Chief of Police in matters pertaining to the enforcement of this paragraph. The advisory board may, on petition of any person or persons observed in a violation of this paragraph, grant such person or persons a reasonable time to secure and install corrective equipment or otherwise provide for compliance with the requirements of this paragraph, during which period they will not be subject to the penalties herein prescribed. A formal hearing, after due notice to all parties concerned shall be conducted on receipt of such written petitions, and records of the action taken shall be filed with the City Clerk.

(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 City 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 City.

(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 City.
 - (M) Permitting any dog to run at large in the City.
 - (N) Parking any truck or trailer used to transport garbage, refuse, livestock or animal wastes for more than one hour on any public street, alley or parking lot or upon any private property which has been zoned for residential, business or commercial purposes unless the vehicle has been washed to remove all materials which would attract flies, insects or vermin or result in offensive odors.
- (3) 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 subsection (1):
- (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. This paragraph shall not apply to the Wisconsin Lottery as set forth by Wisconsin Statutes.
 - (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 City.
 - (D) Any place or premises within the City where City 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 or ordinances of the City.
- (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 coming within the provisions of subsection (1) 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 City in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within such district.
- (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 an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes 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; and any object which obstructs the vision clearance triangle.
- (E) All trees planted and all limbs or branches of trees which are permitted to grow or to remain in violation of any section of the City of Blair Code of Ordinances.
- (F) All use or display of fireworks, except as provided by the laws of the State and ordinances of the City.
- (G) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary 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) 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 City.
- (J) All obstructions of streets, alleys, sidewalks, crosswalks, or storm sewers and all excavations in or under the same, except as permitted by City ordinances 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, including but not limited to, leaves, grass clippings, and other materials that may cause blockage to streets, alleys, sidewalks, crosswalks or storm sewers.
- (K) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

- (L) 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.
 - (M) 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.
 - (N) Repeated or continuous violations of the City ordinances or State laws relating to the storage of flammable liquids.
 - (O) All snow and ice not removed as required by the City of Blair Code of Ordinances.
 - (P) All limbs or branches of trees which are dead or diseased to the point where such limbs or branches constitute a hazard to the safety of persons walking on public sidewalks or riding on public streets.
 - (Q) All fences constructed in violation of, or permitted to remain in violation of, the City of Blair Code of Ordinances.
- (5) CHEMICAL SPILLS.
- (A) Every person using, storing, handling or transporting flammable or combustible liquids, chemicals, gasses or other hazardous materials shall comply with the requirements of the City of Blair Code of Ordinances, and all State and Federal laws, rules, regulations, and codes as the same is now in force and may hereafter from time to time be amended.
 - (B) Every person using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the City for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine, neutralize, contain or clean up any such hazardous material which is involved in any fire or accidental spill or in the threat of any fire or accidental spill.

18.09

TREE OR PLANT DISEASES

- (1) DECLARATION OF PUBLIC NUISANCE. The existence of trees, shrubs and other flora within the City are determined to be valuable public and private assets which substantially enhance the public welfare and are aesthetically significant and economically important in terms of increased value which accrue to public and private lands as a result of their existence. The continued existence of injured or

diseased trees or other plantings, or the failure to properly treat the same if treatment is available, which is likely to cause the spread of disease or endanger persons because of the deteriorated condition, is hereby declared to be a public nuisance requiring abatement.

(2) **EXAMPLES.** The following conditions are exemplary, but not an inclusive list, of matters declared to be public nuisances under this section:

(A) Any dead or defective tree.

(B) Any elm tree infected with the Dutch elm disease fungus or which harbors any carrier of the same.

(C) Any oak tree infected with the oak wilt fungus or which harbors any carrier of the same.

(D) Any tree, bush, shrub or other plant which is infected with an insect or disease capable of infecting other plants.

(3) **ABATEMENT PROCEDURE.**

(A) **Notice.** If the City of Blair Police and Ordinance Committee determines that a dead or diseased tree or plant exists on any private property in violation of this section, a notice may be issued, in writing, by the City Police and Ordinance Committee to the property owner directing, as appropriate, that such tree or plant be removed or treated as therein specified to protect surrounding trees or plants. A notice issued under this section shall provide a reasonable period of time, which shall not be less than 72 hours, within which to perform. The notice shall also state that the existence of the facts which gave rise to the notice constitute a public nuisance which may be abated by the City upon failure of the property owner to comply with the terms of the notice.

(B) **Court Proceedings.** If the corrective action set forth in the notice is not taken by the property owner within the time set forth in the notice, and likelihood that other trees or other plants will be infected, damaged or destroyed, or that persons will be injured, the City shall request the commencement of a nuisance abatement action under Ch. 823, Wis. Stats..

(C) **Summary Abatement.** If, in the judgment of the City of Blair Police and Ordinance Committee, delay is likely to cause injury to persons or the spread of disease to other trees or plants, then the City may enter upon the property and take all necessary action including, but not limited to, trenching to separate root systems, inoculation or other treatment, or removal of the nuisance.

- (D) Appeal. Appeal from the determination of the City of Blair Police and Ordinance Committee as contained in any order under this section shall be to the City of Blair Zoning Board of Appeals in accordance with the procedures set forth in Ch. 68, Wis. Stats. and City of Blair Ordinance Chapter 47. A written request for an appeal shall be made in writing within fifteen (15) days of the date of delivery of the notice. An appeal shall not delay the right of the City of Blair Police and Ordinance Committee to summarily abate the nuisance as set forth in subsection (3)(c) of this section, but a ruling of such appeal in favor of the property owner shall relieve the owner of any obligation to pay the costs of such summary abatement.
- (E) Costs. Costs of judicial abatement of any nuisance under this section shall be taxed and collected pursuant to Ch. 823, Wis. Stats. Costs of summary abatement shall be invoiced to the property owner and collected as a debt or, if permitted by law, may be assessed against the real estate and collected as a special tax against the property.

18.10

ABATEMENT OF PUBLIC NUISANCES

- (1) ENFORCEMENT. It shall be the duty of the Chief of Police and the Blair Police Department, to enforce those provisions of this Chapter that come within the jurisdiction of their office, and they shall make periodic inspections and inspections upon complaint to see that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
- (2) SUMMARY ABATEMENT.
 - (A) Notice to Owner . If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals of decency, the Mayor, or any member of the City of Blair Police and Ordinance Committee, 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 City may 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.
 - (C) 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.

- (3) **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 Mayor, who, upon direction of the Common Council, shall cause an action to abate such nuisance to be commenced in the name of the City in the Circuit Court in Accordance with the provisions of Ch. 823, Wis. Stats.
- (4) **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 the laws of the State of Wisconsin.

18.11 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 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.

18.12 CHRONIC NUISANCE PREMISES

The intent of this section is to establish a process to track chronic nuisances occurring at premises within the City of Blair and to create a method to abate those nuisances.

- (1) **DEFINITIONS.** The following terms shall be defined as follows in this subchapter.
 - (A) **Chief.** The Chief of Police or his or her designee.
 - (B) **Enforcement Action.** Arrest, the issuance of a citation, or the issuance of a written warning.
 - (C) **Nuisance Activity.** Any of the following activities, behaviors, or conduct occurring on a premises:
 - 1.) An act of harassment, as defined in Wis. Stats. § 947.013.
 - 2.) Disorderly conduct, as defined in Wis. Stats. § 947.01.
 - 3.) Crimes of violence, as defined in Wis. Stats. ch. 940.
 - 4.) Lewd and lascivious behavior, as defined in Wis. Stats. § 944.20.
 - 5.) Prostitution, as defined in Wis. Stats. § 944.30.
 - 6.) Theft, as defined in Wis. Stats. § 943.20.
 - 7.) Receiving stolen property, as defined in Wis. Stats. § 943.34.
 - 8.) Arson, as defined in Wis. Stats. § 943.02.

- 9.) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Wis. Stats. ch. 961.
- 10.) Gambling, as defined in Wis. Stats. § 945.02.
- 11.) Animal violations per City Ordinance.
- 12.) Trespassing, as defined in Wis. Stats. §§ 943.13 and 943.14.
- 13.) Firearms violations, as defined in Wis. Stats. ch. 941, and § 948.60.
- 14.) Noise violations per City Ordinance.
- 15.) Any conspiracy to commit, as defined in Wis. Stats. § 939.31, or attempt to commit, as defined in Wis. Stats. § 939.32, any of the activities, behaviors, or conduct enumerated in subdivisions 1 through 14 above.
- 16.) The execution of arrest or search warrants at a particular location.
- 17.) Alcohol violations, as defined Wis. Stats. § 125.07.
- 18.) Obstructing or resisting an officer, as defined in Wis. Stats. § 946.41.
- 19.) Violations of City Public Nuisance Ordinances.
- 20.) Violations of City Building Code Ordinances.
- 21.) Violations of City Zoning Code Ordinances.

(D) Owner. The owner of the premises and his or her agents.

(E) Premises. An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas.

(2) NOTICE.

(A) Whenever the Chief determines that three (3) or more nuisance activities resulting in enforcement action have occurred at a premises during a 12-month period, the Chief may notify the premises owner in writing. In calculating the requisite nuisance activities, the Chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner or manager of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner as set forth in section 18.12(5) below.

(B) The notice shall be deemed to be properly delivered if sent either by certified mail to the property owner's last known address, or if delivered in person to the property owner. If the property owner cannot be located, the notice shall be deemed properly delivered if left at the property owner's usual place of residence in the presence of a competent family member at least 14 years of age, or a competent adult currently residing 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 certified mail to the last known address of the owner as identified by the records of the tax roll.

- (3) **ABATEMENT PLAN.** Any owner receiving notice pursuant to section 18.12(2) above, shall meet with the Chief, or his/her designee, within five (5) days of receipt of such notice. The parties shall review the problems occurring at the property. Within ten (10) days of this meeting, the owner shall submit to the Chief, or his/her designee, an abatement plan to end the nuisance activity on the property. The plan shall also specify a name, address, and telephone number of a person living within 60 miles of the property who can be contacted in the event of further Police or inspection contact, which person may be said Owner.
- (4) **ADDITIONAL NUISANCE ACTIVITY.** Whenever the Chief determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to section 18.12(2) above, that this nuisance activity has occurred not less than fifteen (15) days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of Police response (including fire and EMT services) and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge on the real estate premises.
- (5) **APPEAL.** Appeal of the determination of the Chief of Police pursuant to sections 18.12(2), 18.12(3), or 18.12(4) above may be made solely to the City Council by requesting a hearing. Notice of such appeal must be in writing and submitted to the City Council in care of the City Clerk with a copy submitted to the Chief of Police. Wis. Stats. ch. 68, shall not apply to such an appeal. The hearing under this subsection shall be reasonably scheduled and conducted by the City Council.
- (6) **WHEN CHRONIC NUISANCE 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 twelve (12) months from the date stated on the notice declaring the premise a chronic nuisance premise.

18.13

PENALTY

Any person who shall violate any provision of this chapter shall be subject to a forfeiture of \$250.00 for a first offense, and \$500.00 for any second and subsequent offense committed within twelve (12) months after the commission of a prior violation, which forfeitures are in addition to the specific penalties provided in this chapter. A separate offense shall be deemed committed on each day on which a violation of this chapter occurs or continues. This section shall not preclude the City from maintaining any appropriate action prevent or remove a violation of this chapter.

- 1) No person may smoke in any enclosed spaces as set forth and enumerated in Section 101.123(2) WI. STAT.
- 2) No Person in charge of any of the enclosed spaces as set forth and enumerated in Section 101.123(2) WI. STAT. may allow any person to smoke in said enclosed spaces.
- 3) The definitions set forth in Section 101.123(1) WI. STAT. are incorporated by reference.
- 4) The exemptions set forth in Section 101.123(3) WI. STAT. are incorporated by reference.
- 5) Person in charge of any enclosed space subject to this ordinance may designate an outside area that is a reasonable distance from any entrance to that enclosed space where customers, employees, persons associated with said enclosed space may smoke.
- 6) Penalties.

Persons violating Section 18.08(2) of this ordinance shall be fined as follows:

- (A) First offense, a municipal fine of twenty-five dollars (\$25.00)
- (B) Second offense, a municipal fine of fifty dollars (\$50.00)
- (C) Third or subsequent offense, a civil forfeiture of fifty dollars (\$50.00) plus court costs.