

ORDINANCE O-2011-05
AN ORDINANCE REGULATING SOCIAL HOST IN THE VILLAGE OF
NORTH FOND DU LAC

The Village Board of the Village of North Fond du Lac does ordain as follows:

SECTION 1. – *Village Code section 15.20 is hereby created to read as follows:*
Chapter 15 Standards of Conduct
15.20 Social Host

15.20 (1) DEFINITIONS. For purposes of this chapter, the following terms have the following meanings:

(a) *Alcohol* means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.

(b) *Alcoholic beverage* means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.

(c) *Event or gathering* means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.

(d) *Host or allow* means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

(e) *In control* means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

(f) *Parent* means any person having legal custody of a juvenile:

1. As natural, adoptive parent or step-parent;
2. As a legal guardian; or
3. As a person to whom legal custody has been given by order of the court.

(g) *Present* means being at hand or in attendance.

(h) *Residence, premises, or public or private property* means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.

(i) *Underage person* is any individual under 21 **years** of age.

(2) PROHIBITED ACTS. It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does (i) consume any alcohol or alcoholic beverage; or (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(a) A person is responsible for violating subsection (3) of this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(b) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

(3) EXCEPTIONS. This chapter does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.

(a) This chapter does not apply to legally protected religious observances.

(b) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

SECTION 2 – Severability. If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not effect the other provisions or applications of this ordinance which can be given without the invalid or unconstitutional provision or applications.

SECTION 3- This ordinance shall take effect and be in full force after its passage and publication/posting.

Adopted this ____th day of _____ 2011.

Jim Moore, Village President

Attest: _____
Donna Richards, Village Clerk

Vote: Keller _____
King _____
Moore _____
Streetar _____
Will _____

July 11, 2011 1st Reading
_____ 2nd Reading

Posted and available for inspection: July 8, 2011

Published after Passage: _____

ORDINANCE O-2011-06
AN ORDINANCE RECREATING VILLAGE CODE SECTION 14.04
REGARDING CHRONIC NUISANCE PREMISES.

WHEREAS, several properties in the Village of North Fond du Lac require repeated calls for police and other Village services related to chronic violations of the Village's ordinance and state law; and,

WHEREAS, a small number of residential and commercial units account for a substantial portion of police calls for services; and,

WHEREAS, providing a mechanism for addressing properties with excessive calls for service, including charging for services after three calls within any 12-month period will create incentives for property owners of such properties to correct violations and improve the safety, peace and welfare of the community;

NOW THEREFORE, the Village Board of the Village of North Fond du Lac Municipal Ordinance, Wisconsin, does ordain as follows:

SECTION 1 – Notwithstanding other ordinances and regulations in the Village, Village Code Section 14.04(1) of the Code of Ordinances of the Village of North Fond du Lac is created to read as follows:

Section 14.04(1) **Chronic Nuisance Premises.**

(a) **Definitions.** The following terms shall be defined as follows in this subchapter.

(1) *Chief.* The Chief of Police or his/her designee.

(2) *Enforcement Action.* Arrest, the issuance of a citation, the issuance of a written or verbal warning, or an order to abate a code violation.

(3) *Nuisance Activity.* Any of the following activities, behaviors, conditions of property or conduct whenever engaged in or allowed to occur by property owners, operators, tenants, occupants, or persons associated with premises:

- a. An act of harassment, as defined in 947.013, Wis. Stats.
- b. Disorderly conduct, as defined in 947.01, Wis. Stats.
- c. Crimes of violence, as defined in Chapter 940, Wis. Stats.
- d. Obstructing or resisting an officer, as defined in 946.41, Wis. Stats.
- e. Crimes against sexual morality, as defined in Chapter 944, Wis. Stats.
- f. Any gambling crimes, as defined in Chapter 945, Wis. Stats.
- g. Animal violations, as defined in Chapters 5 and 14, Village of North Fond du Lac Municipal Ordinance.
- h. Theft, as defined in 943.20, Wis. Stats.
- i. Receiving stolen property, as defined in 943.34, Wis. Stats.
- j. Damage to property, as defined in 943.01, Wis. Stats.
- k. Arson, as defined in 943.02, Wis. Stats.
- l. Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in Ch. 961, Wis. Stats.
- m. Trespassing, as defined in 943.13 and 943.14, Wis. Stats.

- n. Weapons violations, as defined in Chapter 14, Village of North Fond du Lac Municipal Ordinance.
- o. Noise violations, as defined in Chapter 14, Village of North Fond du Lac Municipal Ordinance.
- p. Alcohol violations, as defined in Chapter 5, Village of North Fond du Lac Municipal Ordinance or Chapter 125, Wis. Stats.
- q. Loitering and curfew violations, as defined in Chapter 14, Chapter 15 Village of North Fond du Lac Municipal Ordinance.
- r. Reckless driving, as defined in 346.62, Wis. Stats.
- s. Any conspiracy to commit, as defined in 939.31, Wis. Stats., or attempt to commit, as defined in 939.32, Wis. Stats., any of the activities, behaviors, or conduct enumerated in subsections (a) (3) a. through r. above.
- t. Any activities requiring the execution of arrest or search warrants at the particular location.
- u. Any activities reasonably requiring Police support for Village of North Fond du Lac inspection-related calls.
- v. Violations of Fire and Safety Ordinances, as contained in Chapter 14, Village of North Fond du Lac Municipal Ordinance.
- w. Violations of Public Nuisance Ordinances, as contained in Chapter 14, Village of North Fond du Lac Municipal Ordinance.
- x. Violations of Housing Standards Ordinances, as contained in Chapter 9, Village of North Fond du Lac Municipal Ordinance.
- y. Violations of Building Code Ordinances, as contained in Chapter 8, Village of North Fond du Lac Municipal Ordinance.
- z. Violations of Zoning Code provisions or orders made by the Village of Fond du Lac pursuant to the authority of Section 62.23 Wis. Stats.
- aa. Allowing any structure to become subject to an order pursuant to Section 66.0413 Wis. Stats.
- bb. Violation of any provision of Chapter 15 of the North Fond du Lac Code.

(4) *Owner.* The owner of the premises and his/her agents.

(5) *Persons associated with.* Any person who, whenever engaged in a nuisance activity, enters, occupies, patronizes, visits or attempts to enter, occupy, patronize or visit a property. Includes any officer, director, customer, agent, employee or independent contractor of a property owner, tenant, or occupant.

(6) *Premises.* Any individual dwelling unit, any apartment building (all units included as one premises), or any individual business premises/commercial structure and associated common areas located in the Village.

(b) **Notice.** Whenever the Chief determines that three or more nuisance activities resulting in enforcement action have occurred at the premises during any 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 activities 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 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 appeals rights of the owner. . In making the Chief's determination under this section the Chief may, without limitation by enumeration, rely on the representations of Village employees who are charged with the duty of enforcing or overseeing compliance with any chapter or portion of the Village of North Fond du Lac Municipal Code and any documents created by those employees in the performance of their duties.

- (c) **Delivery of Notice.** 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.
- (d) **Abatement Plan.** Any owner receiving notice pursuant to section (b) and (c), shall meet with the Chief, or his/her designee, within five business days of receipt of such notice. The parties shall review the problems occurring at the property and agree upon 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, fire, or inspection contact. If the owner fails to respond or refuses to meet with the Chief after notice, the Chief shall, to the best of his ability fashion an abatement plan and serve it upon the owner in the manner provided in (c) above.
- (e) **Additional Nuisance Activity.** Whenever the Chief determines that additional nuisance activity has occurred at a premises not less than 15 business days after notice has been issued, and if the Chief determines in his discretion that reasonable efforts have not been made to abate the nuisance activity, the Chief may calculate the cost of response and enforcement, by Village personnel, for this and any subsequent nuisance activities. It shall also cause such charges and administrative costs to be assessed against the premises as a fee for current service authorized by 62.11 and 66.0628, Wis. Stats and collected as a special charge which the Village may impose as a lien against the real estate upon which the premises is located. Notwithstanding the foregoing, nothing in this section shall authorize charges for calls for assistance described in Wis. Stat. §66.0627(7).
- (f) **Appeal.** Appeal of the determination of the Chief of Police pursuant to either the notice, abatement plan, or the levying of special charges may be made solely to the Village Board requesting a hearing. Notice of Appeal must be in writing and submitted to the Village Board in care of the Village Clerk with a copy submitted to the Chief of Police . Chapter 68 of the Wisconsin Statutes does not apply to this ordinance. The hearing under this subsection shall be conducted by the Village Board
- (g) **Use of Other Abatement Procedures.** Nothing in this provision shall prohibit the Village from using Chapter 823, Section 66.0413 or other provisions of the Wisconsin Statutes that provide other procedures to address nuisances: to collect damages not provided for in this ordinance; gain injunctive relief; or to obtain other order(s) of the court to regarding the nuisance activity and the abatement thereof.

SECTION 2 – Severability. If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not effect the other provisions or applications of this ordinance which can be given without the invalid or unconstitutional provision or applications.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its passage and posting.

SECTION 4. Repeal. All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed

Adopted this ____th day of _____ 2011.

Jim Moore, Village President

Attest: _____
Donna Richards, Clerk

Vote: Keller _____
King _____
Moore _____
Streeter _____
Will _____

_____ 1st Reading
_____ 2nd Reading

Posted:
Published:

ORDINANCE O-2011-07
AN ORDINANCE RECREATING VILLAGE CODE SECTION 3.11
REGARDING CAPITAL EXPENDITURE LIMITATION.

The Village Board of North Fond du Lac does ordain the following:

SECTION 1 – *Notwithstanding other ordinances and regulations in the Village, Village Code section 3.11 is hereby recreated to read as follows:*

3.11 Capital Expenditure Limitation

(1) Prior to the start of any physical construction of any municipally financed (in whole or in part) project requiring a Village capital expenditure of \$5 million dollars or more, the Village Board shall submit to the electorate a referendum on the project. The wording of any referendum shall provide the specific purpose, location, benefit, and cost of the project.

Nothing in this provision shall be construed to preclude the Village from exercising its role in the planning or design of such publicly financed projects, or from exercising its rights and duties as a municipality under state law.

SECTION 2 – Severability. If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not effect the other provisions or applications of this ordinance which can be given without the invalid or unconstitutional provision or applications.

SECTION 3. This ordinance shall take effect and be in full force from and after its passage and posting.

Adopted this _____th day of _____ 2011.

Jim Moore, Village President

Attest: _____
Donna Richards, Clerk

Vote: Keller _____
King _____
Moore _____
Streeter _____
Will _____

1st Reading
2nd Reading

Posted: