

18.31.060 Enforcement and penalties.

A. Definitions.

For purposes of this section:

“Abatement” means the elimination, correction, removal, suspension, improvement, or other remediation of any condition, use, structure, or activity that constitutes a violation of this subtitle or a public nuisance, including all necessary actions, labor, materials, equipment, services, administrative work, and related expenses required to restore the property or condition to compliance with this subtitle.

“Plan to correct” or “plan” means a written proposal submitted to the commission describing how the responsible party will correct the violation, including the work to be done, who will do it, and a proposed completion date. A plan is a proposal only and does not, by itself, correct the violation or stop penalties.

B. Investigation of Compliance; Notice of Violation.

1. The commission is responsible for conducting the necessary inspection and investigation to ensure compliance with this subtitle and, through field notes, photographs, and other means, documenting the presence of violations.
2. If, upon investigation, the commission becomes aware of a condition it concludes to be unlawful under the terms of this subtitle, it shall notify the responsible parties and those potentially liable. The first notice shall include:
 - A description of the alleged violation;
 - A demand that, within **30 days** of the date of the notice, the responsible party either correct the violation or contact the commission in writing with a plan to correct the violation;
 - A statement that a written plan is not automatic approval and must be accepted by the commission;
 - A statement that if the commission has received no written response within 14 days of the first notice, a second notice will be sent;
 - A statement that if, at the end of the 30-day period, the violation has not been corrected and no plan has been accepted, a daily penalty of \$100 will begin to accrue; and
 - Notice that unpaid penalties and costs will be imposed as a special charge and lien against the property and placed on the property tax roll.Responsible parties and those potentially liable shall include but not be limited to the landowner, tenants, and contractors.
3. If the commission has received no written response within **14 days** of the first notice, the commission shall send a second notice. The second notice shall remind the responsible party of the remaining time to correct the violation or submit a written plan, shall state that a plan is not automatic approval, and shall state that daily penalties will begin if the violation is not corrected and no plan is accepted by the end of the original 30-day period.
4. Allowed uses not requiring permits are subject to compliance and enforcement procedures.

5. If a violation reoccurs within a 2-year period, the commission may shorten or waive the notice periods in this subsection and may commence immediate enforcement action, including accrual of daily penalties and abatement, unless the town board directs otherwise under subsection H.
6. The commission may issue a citation for any violation during the notification period.
7. The town attorney may, upon request of the commission, assist in the preparation and issuance of notices of violation under this section.

C. Plan Review; Resolution by Commission; Accrual of Daily Penalties.

1. The primary method of resolving violations shall be through the town commission. The commission may, after notice and an opportunity for the responsible party to be heard, administratively determine that a violation exists, review a submitted plan, order abatement, and assess daily penalties.
2. The commission shall review any timely written plan and may:
 - o accept it;
 - o accept it with conditions or a different completion date; or
 - o reject it as incomplete or insufficient.
3. If the commission accepts a plan, it shall set a completion date. Daily penalties shall not accrue while the accepted plan is being carried out in good faith and on time. If the accepted plan is not followed, or the completion date is missed, daily penalties of \$100 shall begin or resume, and the commission may order abatement.
4. If the commission rejects a plan, it shall state the reasons in writing and may set a short deadline to submit a revised plan or to correct the violation. A rejected plan does not extend the original 30-day period unless the commission or the town board grants an extension. If no accepted plan is in place and the violation is not corrected, daily penalties shall accrue as provided in this section.
5. After 30 days from the first notice, if the violation has not been corrected and no plan has been accepted, a daily penalty of **\$100** shall begin to accrue. Each day a violation exists or continues after that point (or immediately if notice periods are waived under B.5) shall constitute a separate offense.
6. The commission may, with the assistance of the town attorney, pursue further action. Court proceedings shall be used only when required for injunctions, restraining orders, or other remedies that cannot be achieved administratively.
7. The town attorney may, upon request of the commission or the town board, assist with the collection of accrued daily penalties, abatement costs, and all other enforcement-related costs under this section. Such assistance may include, but is not limited to, preparing demand letters, placing special charges on the tax roll, and pursuing other available legal remedies when administrative collection methods prove insufficient.

D. Abatement; All Costs Borne by Violator.

1. If the responsible party fails to correct the violation within the time required, fails to obtain acceptance of a plan, or fails to carry out an accepted plan, the commission (or the town board upon recommendation of the commission) may cause the violation to be abated by town personnel, contractors, or other means.

2. Every violation of this subtitle is a public nuisance. Abatement may be pursued pursuant to Wis. Stat. § 87.30 and other applicable law.
3. All costs incurred by the town in investigating, documenting, notifying, enforcing, abating, or otherwise resolving the violation shall be the sole responsibility of the violator(s). Such costs include, but are not limited to:
 - Inspection and investigation expenses;
 - Administrative and clerical costs;
 - Costs of notice and service;
 - Actual costs of abatement (labor, materials, equipment, contractors);
 - Reasonable attorney fees and legal costs if the town attorney's assistance is required;
 - Court costs, if any; and
 - Any other expenses reasonably incurred to bring the property or condition into compliance.
4. The commission or town clerk shall keep an accurate account of all such costs and accrued daily penalties.

E. Collection of Penalties and Costs; Lien on Property Taxes.

1. Accrued daily penalties and all costs under this section shall be billed to the responsible party.
2. If the penalties and costs remain unpaid after the time specified by the commission or town board (or become delinquent), they shall be imposed as a special charge against the real property under Wis. Stat. § 66.0627.
3. A delinquent special charge becomes a lien on the property as of the date of delinquency and shall be included in the current or next property tax roll for collection and settlement under Chapter 74 of the Wisconsin Statutes, in the same manner as other property taxes.
4. The town may also pursue any other collection methods authorized by law.

F. Court Proceedings When Necessary.

1. When administrative resolution is insufficient, it shall be the duty of the town attorney, upon request of the commission or town board, to seek enforcement through court actions for injunctions, restraining orders, or other appropriate relief.
2. Subject to the town attorney's discretion and only when court action is pursued, a forfeiture consistent with the daily penalty amounts in this section may be sought upon conviction, plus costs of prosecution if ordered by the court.
3. Nothing in this section prevents private prosecutions pursuant to Wis. Stat. § 59.69(11).

G. Severability.

If any provision of this section is held invalid, the remainder shall continue in full force and effect.

H. Town Board Override.

Notwithstanding any other provision of this section, the town board may, by motion or resolution, waive, modify, extend, reduce, suspend, increase, accept, reject, or otherwise override

any notice period, second-notice requirement, plan, plan deadline, commission decision on a plan, daily penalty, abatement order, cost assessment, or other provision of this section, either in a particular case or generally. Any such action by the town board controls over a conflicting action or determination of the commission.