

CHAPTER 12

ORDERLY CONDUCT

12.01	Offenses Endangering Public Safety
12.02	Offenses Endangering Public Peace and Good Order
12.03	Offenses Endangering Public Morals and Decency
12.04	Offenses Against Public and Private Property
12.05	Penalties
12.06	Truancy and Habitual Truancy
12.07	Possession of Marijuana or Cannabis
12.08	Possession of Drug Paraphernalia
12.09	Possession of Tobacco Products
12.10	Retail Theft
12.11	Sex Offender Residency Restrictions
12.12	Theft
12.13	Fraud

12.01 OFFENSES ENDANGERING PUBLIC SAFETY

- (1) **Discharging and Carrying of Firearms or Weapons-** The following restrictions shall apply when discharging or carrying firearms or weapons in the City of Augusta;
- (a) For the purpose of this section, "firearms" means any rifle, shotgun, handgun, spring gun, pellet gun, air gun or any other weapon from which a shot is discharged by an explosive or propellant. The provisions of Sections 175.60, Wis. Stats., 941.23, Wis. Stats., 943.13 Wis. Stats, and 948.605 Wis. Stats., are incorporated herein.
- (b) It is unlawful for any person to fire or discharge any type of firearm in the city. This section shall not apply to the following:
1. Law enforcement officers when acting in the normal course of their employment;
 2. Any bona fide safety training course or practice firing held at a location approved by the chief of police or that person's designee, or other governmental agency;
 3. When written permits issued to owners or occupants of private premises by the Chief of Police to hunt or shoot on such premises providing the Chief of Police finds such privileges do not jeopardize the safety or welfare of the public and are not otherwise a violation under another State law.
- (c) In addition to the provisions of Wisconsin Statutes enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer or other City officer or official designated by the Augusta Chief of Police to enter the following City of Augusta municipal buildings, facilities or locations while carrying a weapon or a firearm:

1. City Hall
2. Augusta Police Department
3. Augusta Public Library
4. Augusta Senior and Community Center
5. Any and all other municipal buildings or controlled-access facilities owned or operated by the City of Augusta, whether now in existence or later constructed or leased

(d) It shall be unlawful for any person other than a law enforcement officer to enter any building, facility, or location open to the public that is posted as a no firearms or concealed weapons location while possessing, carrying, or concealing a firearm or weapon, whether with or without a state permit.

(e) Signs meeting the requirements of Wis. Stats. § 943.13(2)(bm)1 shall be posted in prominent places near public entrances of all buildings, structures or locations that restrict or prohibit firearms or concealed weapons.

(f) Signs of at least 5 inches by 7 inches in size shall be posted in prominent places near public entrances to all licensed premises selling alcohol for on premise consumption to advise patrons that:

1. Firearms are prohibited on such premises except with a valid concealed weapons permit pursuant to Wis. Stats. § 941.237(2);
2. Those with such a permit cannot be served alcohol if carrying a concealed weapon pursuant to Wis. Stats. § 941.237(3)(cx) Licensees that prohibit all firearms and concealed weapons on the premise and post signs complying with sub E. above shall be exempt from this requirement.

(2) **Throwing or Shooting of Arrows, Stones and Other Missiles Prohibited**

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means at any other person, or into any building, street, sidewalk, alley, highway, park, playground or other public place within the City of Augusta.

(a.) **Bow and arrow or crossbow hunting restrictions**

1. **Purpose.** To further public health and safety.
2. **Coverage.** All bow and arrow or crossbow hunting within the city limits of the City of Augusta.

3. Restrictions

- i. No person may hunt with a bow and arrow or crossbow within 100 yards from a permanent structure located on another person's land and which is used for human occupancy, including a manufactured home as defined in Wis. Stats. Sec. 101.91(2).
- ii. A person who hunts with a bow and arrow or crossbow must discharge the arrow or bolt from the respective weapon toward the ground.

4. Exceptions The restriction set out in (2)(a)3(i) does not apply if the person who owns the land on which the permanent structure is located allows the hunter to hunt within 100 yards of the structure.

5. Penalties Any person violating any provision of this ordinance shall upon conviction be punished by a fine not less than \$100.00 or more than \$250.00 together with the cost of prosecution.

6. This Ordinance shall take effect after passage and publication.
(Council adopted ordinance 12.01(2)(a) on 12/9/2014)

(3) Fires Prohibited

No person may set any fire upon any land in the City of Augusta, until written permission in the form of a burning permit has been received from the Augusta-Bridge Creek Fire Department. Outdoor cooking over a fire contained in a device or structure designed for such use is permissible.

(a) Fire Permits All permits shall be issued by the City of Augusta Fire Chief or their delegated officers.

- 1. No fee shall be charged for a permit.
- 2. Permits shall specify the time burning is permitted as well as the limits of the burning area.
- 3. Sunday and Holiday burning is prohibited.
- 4. The permittee shall provide adequate fire protection to prevent the spread of the fire and shall at all times keep the fire under control.

(b) Noxious Odors Prohibited Any burning of property, substance or things within the City of Augusta 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 of Augusta is prohibited.

(c) Penalty The penalty for violation of any provision of this section shall be a penalty as provided in Section 15.04 of this code.

(4) Sale and Discharge of Fireworks Restricted

- (a) **Private Use and Sale** No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless they shall be authorized by a fireworks permit as hereinafter provided. The term “fireworks” as used in this section shall be defined as provided in §167.10(1), and shall be deemed to include all rockets or similar missiles containing explosive fuel.
- (b) **Fireworks Permits** Fireworks, other than those prohibited by the laws of the public authorities, fair associations, amusement parks, park boards, civic State of Wisconsin, may be used and displayed in open fields, parks, rivers, lakes and ponds by organizations and other groups of individuals when a permit for such display has been granted by the City Mayor. All applications shall be referred to the Fire Chief for investigation and no permit shall be granted unless the City Mayor from the report of the Fire Chief determines that the applicant will use the fireworks in a public exhibition, that all reasonable precautions will be exercised with regard to the protection of the lives and property of all persons and that the display will be handled by a competent operator and conducted in a suitable, safe place and manner. Before granting any fireworks permit, the City Mayor shall require the applicant to post with the City Clerk an approved indemnity bond in the sum of two thousand dollars (\$2,000.00) for the payment of all claims that may arise by reason of injuries to persons or property from the handling, use or discharge of fireworks under such permit.

(5) Obstructing Streets and Sidewalks Prohibited

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrians or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

12.02 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER

(1) Disorderly Conduct Prohibited No person shall within the City of Augusta:

- (a) In any public or private place engage in violent, abusive, indecent profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
- (b) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) Loud and Unnecessary Noise Prohibited No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about an public street, alley or park or any private residence.

- (3) **False Fire Alarms Prohibited** No person shall give or send or cause to be given or sent in any manner any alarm of fire which he knows to be false.
- (4) **Obedience to Officers** No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority.
- (5) **Assisting Escape of Prisoner** No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the city.
- (6) **Personating Police Officers** No person shall personate a policeman or peace officer within the City of Augusta.
- (7) **Harassment**
 - (a.) In this section:
 - 1. "Course of Conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
 - 2. "Credible threat" means a threat made with the intent and apparent ability to carry out the threat.
 - 3. "Personally identifiable information" has the meaning given in §19.62(5).
 - 4. "Record" has the meaning given in §19.32(2).
 - (b.) No person who, with the intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:
 - 1. Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.
 - 2. Engages in a course of conduct or repeatedly commits acts which harass or intimidates the person and which serve no legitimate purpose.

Whoever violates any provision of this ordinance shall be subject to a forfeiture as provided in Section 15.04 of this Code.

12.03 OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY

- (1) **Gambling, Lotteries, Fraudulent Devices and Practices Prohibited:** All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the limits of the city. Any peace officer or policeman of the city is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the city and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

(2) **Indecent Conduct and Language Prohibited:** No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent lewd, lascivious or obscene manner within the city.

(3) **Curfew Violations**

- (a) It is a curfew violation for a child less than eighteen (18) years of age to be in any establishment or public place after 10:00 p.m. or before 5:00 a.m. on any day except as set forth in section 12.03 (4) of this code.
- (b) No parent or guardian shall knowingly permit, or by insufficient control, allow a minor to be present in an establishment or public place after 10:00 pm or before 5:00 a.m. on any day.
- (c) No owner, operator or employee of an establishment shall allow a minor to remain on premises during curfew hours.
- (d) A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:
 - 1. the child has violated this section; and
 - 2. there is no legal defense to the violation.

(4) **Defenses**

- (a) It is a defense to a violation under this ordinance that the child was emancipated:
 - 1. By virtue of having married; or in accordance with the laws of another state or jurisdiction at the time that the child engaged in the prohibited conduct.
- (b) In accordance with the laws of another state or jurisdiction at the time the child engaged in the prohibited conduct.
- (c) It is a defense to a violation under this ordinance that the child engaged in the prohibited conduct while;
 - 1. accompanied by the child's parent, guardian, or custodian;
 - 2. accompanied by an adult specified by the child's parent, guardian, or custodian
 - 3. participating in, going to, or returning from:
 - i. lawful employment;
 - ii. a school sanctioned activity;
 - iii. a religious event;
 - iv. an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;

- v. an activity involving the exercise of the child’s rights protected under the First Amendment to the United
 - vi. an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
- (d) Participating in an activity undertaken at the prior written direction of the child’s parent, guardian, or custodian; or
 - (e) Engaged in travel from a location outside Augusta to another location outside Augusta
- (5) **Consumption of Intoxicating Liquor or Fermented Malt Beverages, Prohibited Where:**
- (a) No person shall consume any intoxicating liquor or fermented malt beverage, nor be in possession of any glass or open container containing alcoholic or fermented malt beverages on any public street, alley, sidewalk or other public way.
 - (b) All purchases of alcoholic or fermented malt beverages by the glass or in open containers shall be consumed on the licensed premises where served and shall not be removed to thoroughfares, streets, or sidewalks in the city.
 - (c) This section may be temporarily suspended by action of the Common Council in specified areas of the city during specified times.
 - (d) The penalty for violation of this section shall be a fifty dollar (\$50.00) forfeiture plus cost and disbursements incurred by the city in prosecution.
- (6) **Contributing to the Delinquency of a child**
- (a) No person should knowingly encourage, entice, permit, solicit or assist another person under the age of 17 in or to the commission or attempted commission of any act or omission that is or would be a violation of the Augusta Code of Ordinances or knowingly fail to take any action that would prevent a child from the commission or attempted commission of any act that is or would be a violation of the Augusta Code of Ordinances.

12.04 OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY

- (1) **Destruction of Property Prohibited:** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the city or its departments or to any private person without the consent of the owner or proper authority.
- (2) **Littering Prohibited:** No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the city or upon any private property not owned by him or upon the surface of any body of water within the City of Augusta.

(3) **Ordinance Relating to Augusta City Parks:**

- (a) No person, except authorized personnel, shall occupy any part of the city parks between the hours of 10:00 p.m. and 6:00 a.m.
- (b) No vehicle shall exceed the speed of ten (10) miles per hour within the limits of the Augusta City Parks.
- (c) No person shall establish or maintain any temporary or permanent camping or lodging place in the Augusta City Parks.

(4) **An Ordinance Relating to the Theft, Return and Damaging of Library Books and Materials of the City of Augusta Public Library:**

(a) **Definitions**, in this ordinance:

- 1. **"Library"** means the City of Augusta Public Library.
- 2. **"Library Material"** includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of the library.
- 3. **"Demand"** means any oral or written communication including correspondence sent by regular mail requesting the return of library materials to the library by any employee, agent, or officially of the library.

(b) **Violation.** It shall be unlawful for any person to do any of the following:

- 1. **Theft:** To take and carry away, transfer, conceal or retain possession of any library material without the consent of a library official, agent or employee and with the intent to deprive the library of the possession of the material.
- 2. **Failure to return:** To fail, on demand, to return any library material to the library within five (5) days of the date of the demand.
- 3. **Damaging of library materials:** To mar, deface, or in any other manner damage or mutilate any book, periodical, pamphlet, pictures, or other article or property belonging to or in charge of the library.

(c) **Concealment as Evidence:** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with

consent of a library official, agent or employee and which is concealed by the person upon the person or among the belongings of another is evidence on intentional concealment on the part of the person so concealing the material.

- (d) **Penalties:** Any person convicted of a violation of the provision of this ordinance shall forfeit not less than ten dollars (\$10.00) and no more than one hundred dollars (\$100.00) plus court costs and penalty assessment and in default of payment thereof. If the violation for which a person is convicted involves the theft, failure to return or damaging of any library material, the sentencing court shall add to any fine imposed the fair market or replacement value of the library material. In cases involving theft and failure to return any library material, this additional fine may be waived if the violator returns the library material within five (5) days of conviction.
- (e) **Prosecution:** Each separate act of theft, failure to return or damaging of library materials shall be considered as a separate offense. The City of Augusta may in its discretion join several offenses as a single prosecution against any one violator. The City of Augusta in prosecuting any offenses under this ordinance may use and adopt a Municipal Citation in which event the fine shall be ten dollars (\$10.00) plus court costs and penalty assessment and damages assessed under the preceding section. The appearance in court by the violator under such a citation shall be mandatory where the violation involves library materials which have not been returned to the library by the date of the issuance of said citation.
- (f) **Severability:** If any provisions of this ordinance is declared invalid or unconstitutional, or if the application of this ordinance to any person or circumstances is declared invalid or unconstitutional such invalidity or unconstitutionality shall not affect without the invalid or unconstitutional provision or application.
- (g) **Effective date:** This ordinance shall take effect and be in force upon its passage and publication as provided by law.

12.05 PENALTIES

Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be subject to a penalty as provided in Section 15.04 of this code.

12.06 TRUANCY AND HABITUAL TRUANCY

Sections:

- 12.06 (1) **Truancy and habitual truancy**
- 12.06 (2) **Contributing to truancy**
- 12.06 (3) **Definitions**
- 12.06 (4) **Disposition and sanctions for truants**
- 12.06 (5) **Disposition and sanctions for habitual**
- 12.06 (6) **Exception for habitual truants**
- 12.06 (7) **References to statutes**
- 12.06 (8) **Severability**

- (1) **Truancy and Habitual Truancy:** No person under the age of 18 years who is subject to school attendance laws shall be truant or a habitual truant as defined in this section.
- (2) **Contribution to Truancy:**
- (a) Except as provided in (b) no person 17 years of age or older shall, by act or omission, knowingly encourage or contribute to the truancy of a person subject to school attendance laws.
 - (b) (a) Does not apply to a person who has under his or her control a child who has been sanctioned under Wis. Stat. § 49.26 (1) (h).
 - (c) An act or omission contributes to a truancy of a pupil whether or not the pupil is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the pupil to be truant.
- (3) **Definitions for Purpose of this Section:**
- (a) ***“Acceptable excuse”*** means permission of the parent/guardian/legal custodian of a pupil within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence, in emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.
 - (b) ***“Truant”*** means a pupil who is absent from school without an acceptable excuse under Wis. Stat. 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.
 - (c) ***“Habitual truant”*** means a pupil who is absent from school without an acceptable excuse or part or all of 5 or more days on which school is held during a school semester.
 - (d) ***“Operating privilege”*** has the meaning given in Wis. Stat. §340.01.
- (4) **Disposition and Sanctions for Truants:**
- (a) If a person under the age of 18 is adjudged to be a truant, the court may enter one or more of the following dispositions:
 - 1. An order for the person to attend school.
 - 2. A forfeiture of not more than \$50 (fifty dollars) plus costs for a first violation, or a forfeiture of not more than \$100 (one hundred dollars) plus costs for any 2nd or subsequent violation committed within 12 (twelve) months of a previous violation, subject to Wis, Stat. § 93837 and subject to a maximum cumulative forfeiture amount of not more than £500 for all violations committed during a school semester. All or part of the

forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

- (b) **Sanctions for violation of dispositional order.** If the court finds that a person violates a condition of his or her dispositional order under 12.5.040, the court may impose as a sanction on the person, any combination of the following, if at the time of disposition the court explained the conditions to the person and informed the person of those possible sanctions:
1. Suspend the persons operating privilege, as defined in Wis. Stat. § 340.01(40) for not more than one year. If the person does not hold a valid operator's license under Wis. Stat. ch. 343, other than an instruction permit under Wis. Stat. § 343.07 or a restricted license under Wis. Stat. § 343.08, on the date of the order issued under this subsection, the court may order the suspension or limitation to begin on the date that the operator's license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years after the date of the order issued under this subsection, whichever occurs first. If the court suspends the person's operating privilege or an approval issued under Wis. Stat. ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the license or approval with a notice stating the reason for and the duration of the suspension.
 2. An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stat. § 938.34(5g). The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from civil liability in excess of \$25,000 for any act or omission by or impacting on that person.
 3. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
 4. An order for the person to attend an education program as described in Wis. Stat. §938.34 (7d).
 5. An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. § 103.70 authorizing employment of the person.

6. An order for the person to be placed in a teen court program as described in Wis. Stat. § 938.342(1g)(l).
7. An order for the person to attend school,
8. A forfeiture of not more than \$500 (five hundred dollars) plus costs, subject to Wis. Stat. §938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
10. An order placing the person under formal or informal supervision, as described in Wis. Stat. §938.34(2) for up to one year.
11. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodians own expense or to attend school with the person, or both.

(5) **Disposition and Sanctions for Habitual Truants:**

- (a) **Dispositions.** If a person under the age of 18 is adjudged to be an habitual truant, the court may enter one or more of the following dispositions;
1. Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.
 2. An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stat § 938.34(5g). The cost of any such counseling, supervised work program or other community service work may be assessed against the person. The parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.
 3. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

4. An order for the person to attend an educational program as described in Wis. Stat. §938.34 (7d), Wis. Stats.
5. An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. § 103.70, authorizing the employment of the person.
6. An order for the person to be placed in a teen court program as described in Wis. Stat. §938.342(1g)(t).
7. An order for the person to attend school.
8. A forfeiture of not more than \$500 plus costs, subject to Wis. Stat. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person or both.
9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
10. An order placing the person under format or informal supervision, as described in Wis. Stat. § 938.34(2) for up to one year.
11. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(b) **Sanctions for violation of dispositional order.** If the court finds that a person violates a condition of his or her dispositional order under 12.5.050, the court may impose as a sanction on the person, any combination of the following, if at the time of disposition, the court explained the conditions to the person and informed the person of those possible sanctions:

1. Placement of the juvenile in a secure detention facility or juvenile portion of a county jail that meets the standards promulgated by the department by rule or in a place of non-secure custody, for not more than 10 days and the provision of educational services consistent with his or her current course of study during the period of placement. The juvenile shall be given credit against the period of detention or non-secure custody imposed under this subdivision for all time spent in secure detention in connection with the course of conduct for which the detention or non-secure custody was imposed.
2. Suspension or limitation on the use of the person's operating privilege as defined under Wis. Stat. § 340.01(40), or of any approval issued under Wis. Stat. ch. 29 for not more than one year. If the person does not hold a valid operator's license under Wis. Stat. ch. 343, other than an instruction permit under Wis. Stat. § 343.07 or a restricted license under Wis. Stat. §

343.08, on the date of the order issued under this subsection, the court may order the suspension or limitation to begin on the date that the operator's license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years after the date of the order issued under this subsection, whichever occurs first. If the court suspends the person's operating privilege or an approval issued under Wis. Stat, ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the License or approval with a notice stating the reason for and the duration of the suspension.

3. Counseling or participation for not more than 25 hours in a supervised work program or other community service work under Wis. Stat. § 938.34 (5g).
4. Detention in the person's home or current residence for a period of not more than 30 days except during hours which the person is attending religious worship or a school program, including travel time required to get to and from the place of worship or school program. The order may permit a person to leave his or her home or current residence if he or she is accompanied by a parent guardian.
5. An order for the person to attend an educational program as described in Wis. Stat. §938.34 (7d).
6. An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. § 103.70, authorizing the employment of the person.
7. An order for the person to be placed in a teen court program pursuant to \Wis. Stat. §938.342(1 g)(1).
8. An order for the person to attend school.
9. A forfeiture of not more than \$500 plus costs, subject to Wis. Stat. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
10. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
11. An order placing the person under formal or informal supervision, as described in Wis. Stat. § 938.34(2). for up to one year.
12. An order for the person's parent, guardian or legal custodian to participate in counseling at the parents, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person or both.

(6) **Exception for Habitual Truants:**

- (a) A person incurs no liability as a habitual truant under this ordinance if appropriate personnel of the school or school district in which the child is enrolled have not, within one year prior to the commencement of prosecution under this ordinance, done all of the following:
1. Met with the child's parent or guardian to discuss the child's truancy, or attempted to meet with the child's parent or guardian and received no response or were refused;
 2. Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and considered curriculum modifications under Wis. Stat. § 118.15(1)(d);
 3. Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level; and
 4. Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so have taken appropriate action or made appropriate referrals.
 - i. 12.6.05 A. 1. does not apply if a meeting under Wis. Stat. 18.16(2)(cg)(3), is not held within 10 school days after the date that the notice under subsection (2) (cg) is sent.
 - ii. 12.6.06 A.2, 3, and 4. are not required if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

(7) **References to Statutes:** References to Wisconsin Statutes are to 2005-2006 Statutes as from time to time amended, modified, repealed or otherwise altered by State Legislature.

(8) **Severability:** If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

12.07 POSSESSION OF MARIJUANA OR CANNABIS.

(1) **Purpose:** The people of Augusta specifically determine that the regulations herein contained concerning marijuana and cannabis are necessary to serve the ethical purpose of providing just and equitable legal treatment of the citizens of this community and to preserve the respect of such citizens for law, its process, and its administration.

(2) **Definitions. In this section**

- (a) ***“Cannabis”*** -The resin extracted from any part of the plant Cannabis Sativa L. or any other nonfibrous extract from any part of the plant containing delta 9-tetrahydrocannabinol.
 - (b) ***“Casually possess”*** - The possession of not more than twenty-eight (28) grams of cannabis, or one hundred and twelve (112) grams of marijuana.
 - (c) ***“Marijuana”***- All parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. It does not include cannabis or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
 - (d) ***“Practitioner”*** - A physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.
 - (e) ***“Pharmacy, hospital, or other institution”*** licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.
 - (f) ***“Public Place”*** - A place which is in public ownership or a place to which the public has access; distinguished from a private place.
- (3) **Public Possession:** No person shall casually possess marijuana or cannabis in a public place unless such marijuana or cannabis was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of her, his, or its professional practice.
- (4) **Fine:** A violation of Subsection (3) of this ordinance shall be subject to a forfeiture of up to one hundred dollars (\$100). For a second or subsequent violation within 365 days of a previous violation hereunder, the forfeiture shall be up to two hundred dollars (\$200).
- (5) **Violations are not a crime:** A violation of this ordinance is not a crime and shall not subject a person found in violation thereof the loss of civil rights or to other disabilities imposed upon a person convicted of a crime. No entry or other record may be made which indicates that a person alleged or found to have violated this ordinance has been arrested for, charged with, prosecuted for, or convicted of a crime.
- (6) **Separability Clause:** If any subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

12.08 POSSESSION OF DRUG PARAPHERNALIA

- (1) **Unlawful to use or Posses Drug Paraphernalia:** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process. Prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Chapter 961, Wis., Stats. Any person who violates this section is subject to a forfeiture of not more than \$500. For a second or subsequent violation within 365 days of a previous violation hereunder, the forfeiture shall be up to eight hundred dollars (\$800).
- (2) **WL STATE STATS. Adopted:** Section 961.571, Wis. Stats., and Section 961.572, Wis. Stats., are hereby adopted by reference including amendments thereto as may be adopted from time to time.

12.09 TOBACCO PRODUCTS

- (1) **Definitions.**
 - (a) ***“Cigarette”*** has the meaning given by Wisconsin Statutes Section 139.30(1).
 - (b) ***“Law enforcement officer”*** has the meaning given in Wisconsin Statutes Section 30.50(4s).
 - (c) ***“Tobacco products”*** has the meaning given in Wisconsin Statutes Section 139.75(12).
 - (d) ***“E-cigarette”*** is a device used to simulate the experience of smoking, having a cartridge with a heater that vaporizes liquid nicotine or other substances instead of burning tobacco also commonly referred to as a vaping device.
 - (e) ***“E-cigarette supplies”*** are any liquid or other substance used to fill an e-cigarette cartridge or reservoir, commonly referred to as e-liquid or e-juice.
 - (f) ***“Legal age”*** is described as the legal age in which to lawfully possess or use a certain item.
- (2) **Possession of tobacco product or e-cigarette prohibited.**

Whoever does any of the following may be penalized as provided in 12.09(5):

 - (a) Except as provided in subsection (b) of this section, no person under the legal age may do any of the following:
 1. Buy or attempt to buy any cigarette, tobacco product, e-cigarette or e-cigarette supplies;
 2. Falsely represent his or her age for the purpose of receiving any cigarette, tobacco product, e-cigarette or e-cigarette supply;
 3. Possess any cigarette, tobacco product, e-cigarette or e-cigarette supplies;

- (b) A child may purchase cigarettes, tobacco products, e-cigarette or e-cigarette supplies for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Wisconsin Statutes Section 134.65(1).
- (c) A law enforcement officer shall seize any cigarette, tobacco product, e-cigarette or e-cigarette supply involved in any violation of subsection A of this section committed in his or her presence.
- (d) Any person violating the provisions of this section will be subject to a forfeiture not to exceed fifty dollars in accordance with Wis. Stat. § 938.343(2).

(3) **Delivery of tobacco products, e-cigarettes and e-cigarette supplies to minors prohibited.**

Whoever does any of the following may be penalized as provided in 12.09(5):

- (a) Sells, trades, gives away or otherwise transfers cigarettes, e-cigarettes, e-cigarette supplies or any other tobacco products to a person under the legal age to possess such items.

(4) **Possession of Tobacco Products on School Grounds**

It is unlawful for any person to use any tobacco product, nicotine product, or cigarette on the premises owned or rented by, or under the control of, the School Board of the Augusta Area School District. The School Board of the Augusta Area School District may allow the use of tobacco products, nicotine products, and cigarettes on premises owned by the School District and rented to another person for non- educational purposes.

(5) **Penalties:**

Whoever violates this section, shall, upon conviction shall be subject to a penalty as provided in Section 15.04(1) of this code.

12.10 RETAIL THEFT

(1) **Definitions:**

- (a) **“MERCHANT”** means a person who deals in goods of the kind or otherwise by his or her occupation hold himself or herself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his or her employment of an agent or broker or other intermediary who by his or her occupation holds himself or herself out as having such knowledge or skill or any innkeeper, motel keeper, or hotelkeeper.
- (b) **“MERCHANDISE”** includes a service provided by a service provider.
- (c) **“RETAIL MERCHANTILE ESTABLISHMENT”** means any place where merchandise is displayed, held, stored or offered for sale to the public.
- (d) **“SERVICE PROVIDER”** means a merchant who provides a service to retail

customers without a written contract with the expectation that the service will be paid for by the customer upon completion of the service.

- (e) **“THEFT DETECTION DEVICE”** means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.
- (f) **“THEFT DETECTION DEVICE REMOVER”** means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (g) **“THEFT DETECTION SHIELDING DEVICE”** means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.
- (h) **“VALUE OF MERCHANDISE”** means:
 - 1. For property of merchant, the value of the property; or
 - 2. For merchandise held for resale, the merchant’s stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant’s stated price, the difference between the merchant’s stated price of the merchandise and the altered price.
 - 3. For a service provided by a service provider, the price that the service provider stated for the service before the service was provided.

(2) **Application:**

- (a) Section 12.10 of this code applies if the value of the merchandise or services does not exceed \$500.
- (b) Section 12.10 of this code does not apply if:
 - 1. The person charged has been convicted of a violation of Section 12.10 of this code within one year of the date of the incident which is the subject of the current charged violation.
 - 2. The person agrees or combines with another to commit the violation and intends to sell the merchandise by means of the Internet.
- (c) All other charges of retail theft or services shall be made under Wis. Stats. Section 943.50

- (3) **Offense:** A person may be penalized as provided in sub (8) if he or she does any of the following without the merchant’s consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

- (a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant, or
 - (b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant, or
 - (c) Intentionally transfers merchandise held for resale by a merchant of a merchant, or
 - (d) Intentionally conceals merchandise held for resale by a merchant or property of a merchant, or
 - (e) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant, or
 - (f) While anywhere in the merchant's store, intentionally removed a theft detection device from merchandise held for resale by a merchant or property of a merchant, or
 - (g) Uses or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor, or
 - (h) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant, or
 - (i) Represents to a merchant that he or another is the lawful owner of property knowing that such representation is false, and transfers or attempts to transfer that property to a merchant who is the owner of the property in exchange for money, merchandise credit or other property of the merchant.
- (4) **Theft of Services:** Any person may be penalized as provided in sub. (8) if having obtained a service from a service provider, he or she, without the service provider's consent and with intent to deprive the service provider permanently of the full price of the service, absconds and intentionally fails or refuses to pay for the service.
- (5) **Detention:** A merchant or service provider, a merchant's or service provider's adult employee or a merchant's or service provider's security agent who has reasonable cause for believing that a person has violated this section in his or her presence may detain, within or at the merchant's or service provider's place of business where the suspected violation took place, the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or search against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. The merchant or service provider, merchant's or

service provider's adult employee or merchant's or service provider's security agent may release the detained person before the arrival of a peace officer or parent or guardian. Any merchant or service provider, merchant's or service provider's adult employee or merchant's or service provider's security agent who acts in good faith in any act authorized under this section immune from civil or criminal liability for those acts.

(6) Evidence

(a) In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.

(b) For the purpose of sub. (2)(b)2, evidence that a person sold by means of the Internet, merchandise that is similar to the merchandise that is the subject of a violation under sub. (3), within 90 days before the violation, is prima facie evidence of the person's intent to sell the merchandise by means of the Internet.

(7) Defense of property and protection against retail theft: A merchant or merchant's adult employee is privileged to defend property as prescribed in Wis. Stats. S. 939.49.

(8) Penalties: Whoever violates this section, shall, upon conviction shall be subject to a penalty as provided in Section 15.04 (1) of this code.

(9) Additional Penalty: In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under Wis. Stats. S. 800.093.

12.11 SEX OFFENDER RESIDENCY RESTRICTIONS

The Common Council of the City of Augusta do ordain as follows:

SECTION I – AUTHORITY

The Common Council of the City of Augusta, Eau Claire County, Wisconsin, has authority to enact this ordinance pursuant to Wis. Stat. § 62.11(5) to act to promote the good order of the City, and to promote the health, safety, and welfare of the public.

SECTION II – REVISIONS TO CITY CODE

Chapter 12.11 of the City's Municipal Code of Ordinances, shall be repealed and recreated to read as follows:

- 12.11(1) Declaration of Purpose and Findings**
- 12.11(2) Definitions**
- 12.11(3) Prohibited Acts in Restricted Zones**
- 12.11(4) Residency Restrictions**
- 12.11(5) Preparation of Map**
- 12.11(6) Prohibited Activity**
- 12.11(7) Prohibition of Sale or Rental of Property to Designated Offenders**

- 12.11(8) Original Domicile Residency Restriction**
- 12.11(9) Accountability Program**
- 12.11(10) Severability**
- 12.11(11) Enforcement; Violations and Penalties**

(1) Declaration of Purpose, Intent, and Findings

This chapter is a regulatory measure aimed at protecting the health and safety of children in the City of Augusta from the risk that convicted sex offenders may reoffend in locations close to their residences and close to where children congregate. Further, this measure is intended to enhance the community's citizen observation and reporting of individuals who may pose a threat to children by "grooming behaviors." The City of Augusta finds and declares that in addition to schools and state-licensed child day-care centers, children and other vulnerable individuals congregate or play in a number of public places, including public parks, athletic fields, libraries, and other places such as group homes.

It is the intent of this ordinance not to impose a criminal penalty or punishment but rather to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by designating locations where children regularly congregate wherein certain sexual offenders and sexual predators are prohibited from entering as well as zones around such locations in which such persons are restricted from establishing temporary or permanent residences.

According to a 1997 report prepared by the US Department of Justice titled "Sex Offenses and Offenders", nearly two-thirds of victims of convicted rape and sexual assault offenders serving time in state prison were under the age of eighteen (18); the median age of victims of imprisoned sexual assault offenders was less than thirteen (13) years; the median age for rape victims was about twenty-two (22) years; an estimated twenty-four percent (24%) of those serving time for rape and nineteen percent (19%) of those serving time for sexual assault had been on probation or parole at the time of the offense.

Based upon a 2003 study by the U.S. Department of Justice, Bureau of Justice Statistics, titled Recidivism of Sex Offenders Released from Prison in 1994, sex offenders released from prison were four times more likely to be rearrested for a sex crime as compared to non-sex offenders released from prison. Of those individuals included in the study, forty (40) percent of new sex crimes committed by those sex offenders released from prison had occurred within the first twelve (12) months of release. Further, child molesters who were released from prison were at least six times more likely to be rearrested for another sex crime against a child as compared to a non-sex offender released from prison.

According to the "Sex Offender Management Assessment and Planning Initiative Research Brief," ("SOMAPI Research Brief") issued by the U.S. Department of Justice in July 2015 regarding the recidivism rates for child molesters, in one study "researchers reported that 5.1 percent of the child molesters in the study were rearrested for a new sex crime within 3 years of their release, 14.1 percent were rearrested for a violent crime, and 39.4 percent were rearrested for a crime of any kind." Further, "Similar to the pattern for rapists, child molesters with more than one prior arrest had an overall recidivism rate

nearly double (44.3 percent compared to 23.3 percent) that of child molesters with only one prior arrest. As might be expected, child molesters were more likely than any other type of offender—sexual or nonsexual—to be arrested for a sex crime against a child following release from prison.” (emphasis added). In another study cited by the SOMAPI Research Brief, based on a 25-year follow up period, the researchers found a sexual recidivism rate of 52 percent (defined as those charged with a subsequent sexual offense) using a sample of 115 child molesters who were discharged from civil commitment in Massachusetts between 1960 and 1984.”

The United States Supreme Court has recognized that the risk of recidivism posed by sexual offenders is “frightening and high” and “when convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault”, *Smith v. Doe*, 538 U.S. 84, 123 S.Ct. 1140, 155 L.Ed. 2d 164 (2003) and *McKune v. Lile*, 536 U.S. 24, 34, 122 S.Ct. 2017, 153 L.Ed. 2d 47 (2002) citing U.S. Department of Justice, Bureau of Justice Statistics, *Sex Offenses and Offenders*, 27 (1997); U.S. Department of Justice, Bureau of Justice Statistics, *Recidivism of Prisoners Released in 1983*, page 6 (1997).

The Common Council has reviewed the decision of the United States Court of Appeals for the 8th Circuit in *Doe v. Miller*, 405 F.3d 700, 716 (8th Circuit 2005), providing in part: “the record does not support a conclusion that the Iowa General Assembly and the Governor acted based merely on negative attitudes toward, fear of, or a bare desire to harm a politically unpopular group. [Citation omitted] Sex offenders have a high rate of recidivism, and the parties presented expert testimony that reducing opportunity and temptation is important to minimizing the risk of re-offense. Even experts in the field could not predict with confidence whether a particular sex offender will reoffend, whether an offender convicted of an offense against a teenager will be among those who ‘cross over’ to offend against a younger child, or the degree to which regular proximity to a place where children are located enhances the risk of re-offense against children. One expert in the district court opined that it is just ‘common sense’ that limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense. [Citation omitted] The policymakers of Iowa are entitled to employ such ‘common sense,’ and we are not persuaded that the means selected to pursue the State’s legitimate interest are without rational basis.”

After consideration of the foregoing recitals and related reports and proceedings pertaining to this subject matter; and upon the prior experience of the City of Augusta in protecting the members of the community from sexually violent persons, the Common Council of the City of Augusta finds the proposed ordinance creating residency restrictions for sex offenders will serve to protect the health, safety and welfare of the community.

(2) **Definitions:**

The following words, terms, and phrases, when used in this chapter, shall be defined as follows, except when the context clearly indicates a different meaning:

- (a) ***“Child or Children”*** — A person under the age of 18.
- (b) ***“Designated Offender”*** — Includes any or all of the following persons:

1. A person required to register as a sex offender under Wis. Stat. § 301.45 or prior iterations of State Statutes related to sex offender registration, if the sex offense which required registration involved a child;
 2. a person subject to the sex crimes commitment provisions of Wis. Stat. § 975.06;
 3. a serious child sex offender as defined in Wis. Stat. § 980.01(4m);
 4. a sexually violent person as defined in Wis. Stat. § 980.01(7); or (5) any person who has been convicted of a crime under Wis. Stat. §§ 948.05, 948.055, 948.075, 948.08, 948.095, 940.10, 948.11, 948.12, or 948.13 or prior iterations of such State Statutes, if the sex offense which required registration involved a child.
- (c) **“Grooming Behavior”** — Actions deliberately undertaken by an offender with the aim of befriending a child in order to lower the child's sexual inhibitions or establish an intimate friendship in preparation for a sexual act with the child.
- (d) **“Loiter-Free Zone”** — The three-hundred (300) foot radius surrounding each restricted zone.
- (e) **“Loiter or Loitering”** — Whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.
- (f) **“Residence or Reside”** — Any place where a designated offender, either temporarily or permanently, sleeps, lodges, or abides.
- (g) **“Restricted Zone”** — The building, facilities and improvements, and the legal parcel of real property on which they are situated, to the extent the property is within the City of Augusta, that are used for or which support a use set forth as follows:
1. A public park, parkway, parkland, or park facility;
 2. A public swimming area;
 3. A public library;
 4. A recreational trail;
 5. A public playground;
 6. A school for children;
 7. Athletic fields used by children;
 8. A state-licensed commercial day-care center;
 9. Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, music school or charter school;
 10. Aquatic facilities open to the public;

11. Any facility for children [which means a public or private school, a group home as defined in Wis. Stat. § 48.02(7), a residential care center for children and youth as defined in Wis. Stat. § 48.02(15d), a shelter care facility as defined in Wis. Stat. § 48.02(17), a foster home as defined in Wis. Stat. § 48.02(6), a day-care center licensed under Wis. Stat. § 48.65, a day-care program established under Wis. Stat. § 120.13(14), a day-care provider certified under Wis. Stat. § 48.651, or a youth center as defined in Wis. Stat. § 961.01(22).];
12. Churches, synagogues, mosques, temples, other houses of religious worship or other buildings primarily used for religious purposes or religious instruction, and at which regular educational programs for children are provided, e.g., Sunday School (collectively “church”).
13. WISCONSIN STATUTES and WIS. STAT. — The Wisconsin Statutes in effect when this chapter is adopted and shall include any amendment to or renumbering of the statutes after the adoption of this chapter.

(3) Prohibited Acts in Restricted Zones

- (a) Within a restricted zone(s) no designated offender shall:
 1. Enter or be present in any restricted zone that is a public playground, school for children, or facility for children.
 2. Enter or be present in any other restricted zone between the hours of 6:00 a.m. and 11:30 p.m. or at any time when a child is present.
 3. Loiter within a loiter-free zone.
- (b) A designated offender does not violate this chapter if any of the following apply:
 1. If the designated offender has official business in the restricted zone, which is determined by the reasonable person standard and such official business is not otherwise prohibited by law, regulation, or other order.
 2. If the designated offender enters or is present in a restricted zone that includes a church, but only if the following conditions are all satisfied:
 - i. The entrance and presence upon the property occurs only during hours of worship or other religious program or service as posted to the public;
 - ii. The designated offender shall not participate in any religious education programs which include children; and
 - iii. Such entrance or presence is not otherwise prohibited by law, regulation, or other order.
 3. If the designated offender enters or is present in a restricted zone to attend an event involving the designated offender’s natural or adopted children, or stepchildren, but only if the following conditions are all satisfied:

- i. Entrance and presence in the restricted zone occurs only during hours of activity related to the event as posted to the public;
 - ii. Notice, orally or in writing, is given to a person in charge of the event of the designated offender's attendance prior to the event; and
 - iii. Such entrance or presence is not otherwise prohibited by law, regulation, or other order.
4. If the designated offender enters or is present at a polling location in a restricted zone for the purpose of voting in any local, state or federal election, but only if the following conditions are all satisfied:
- i. The person is eligible to vote;
 - ii. The polling location is the designated polling place for the designated offender; and
 - iii. The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the person vacates the property immediately after voting.
5. If the designated offender enters or is present in a restricted zone that supports an elementary or secondary school that the designated offender currently attends, but only if the designated offender's presence is required for educational purposes and such entrance or presence is not otherwise prohibited by law, regulation, or other order.

(4) Residency Restrictions

- (a) A designated offender shall not reside within 500 feet of a school for children, a facility for children, public park, church, or within 500 feet of any other restricted zone. The distance shall be measured by following a straight line from the closest boundary line of the real property supporting the residence of a designated offender to the closest real property boundary line of the restricted zone.
- (b) **Exceptions.** A designated offender residing within 500 feet of the real property consisting of a school for children, a facility for children, public park, church, or within 500 feet of the real property comprising any other restricted zone, does not violate section 12.11(4)(a) if any of the following apply:
- 1. The person has established a residence prior to the effective date of this chapter, and has continuously maintained said residence since that effective date, which is within 500 feet of a school for children, a facility for children, public park, church, or within 500 feet of any other restricted zone.
 - 2. The designated offender has established a residence within 500 feet of a school for children, a facility for children, public park, church, or within 500 feet of any other restricted zone prior to that restricted zone existing,

and has continuously maintained said residence prior to that restricted zone existing.

3. The designated offender is a minor or ward under guardianship.
4. The designated offender is living in an assisted facility or nursing home.

(5) Preparation of Map

The City Clerk shall maintain an official map showing the areas in which designated offenders are prohibited from residing. The City Clerk shall update the map at least annually to reflect any changes. The map is to be displayed or available in the office of the City Clerk.

(6) Prohibited Activity

It is unlawful for any designated offender to participate in a holiday event involving children, such as distributing candy or other items to children on Halloween, wearing a Santa Clause costume, or wearing an Easter Bunny costume. Holiday or costumed events in which the designated offender is the parent or guardian of the children involved and no non-familial children are present, are exempt from this section.

(7) Prohibition of Sale or Rental of Property to Designated Offenders

- (a) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance (“Structure”), with the knowledge that a designated offender will reside in that Structure, if the designated offender is prohibited from residing in the Structure under this chapter.
- (b) It is unlawful for any owner, real estate broker, or real estate sales person to participate in the sale of any place, structure, or part thereof, trailer or other conveyance, (“Structure”), with the knowledge that a designated offender will reside in that Structure, if the designated offender is prohibited from residing in the Structure under this chapter.

(8) Original Domicile Residency Restriction

In addition to any other restrictions imposed by this chapter, a designated offender shall not be permitted to establish a residence in the City unless that person was domiciled in the City at the time of the most recent offense which causes the person to be a designated offender.

(9) Accountability Program

- (a) The Augusta Police Department may establish and maintain Department policy and procedures to verify the registered address of designated offenders and to identify those designated offenders not in compliance with the Wisconsin Department of Corrections Sex Offender Registry.

- (b) Designated offenders shall provide the Augusta Police Department or any official law enforcement officer requesting the same with current photograph and address, employment location, vehicle description(s), and other related information that may be deemed appropriate and lawful.

(10) Severability

The provisions of this chapter shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this chapter irrespective of whether or not one or more provisions may be declared invalid. If any provision of this chapter or the application to any person or circumstance is held invalid, the remainder of this chapter or the application of such other provisions to other persons or circumstances shall not be affected.

(11) Enforcement; Violations and Penalties.

- (a) It shall be unlawful for any person to willfully obstruct, hinder, or delay the enforcement of any order, rule, regulation, or plan issued pursuant to this chapter or to do any act forbidden by any order, rule, regulation, or plan issued pursuant to the authority contained in this chapter.
- (b) Any person violating a provision of this chapter shall, upon conviction thereof, be subject to forfeiture of not less than \$500.00 and no more than \$1,000.00 for each violation. Each day a violation continues shall constitute a separate offense.
- (c) The City may seek injunctive relief and neither the issuance of a citation nor the imposition of a forfeiture hereunder shall preclude the City from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this chapter. Additionally, the City attorney may bring an action in the name of the City in the Circuit Court for Eau Claire County to permanently enjoin such residency as a public nuisance.

SECTION III - PUBLICATION AND EFFECTIVE DATE

This ordinance shall be published within fifteen (15) days of passage as required by Wis. Stat. § 62.11(4)(a) and shall become effective the day after publication. (*Published: August 19, 2021*)

Adopted this 10th day of August, 2021.

CITY OF AUGUSTA

Jason TePaske, Mayor

Attest:

Cynthia Anderegg, City Clerk

12.12 THEFT

(1) **Definitions:**

- (a) ***“Moveable property”*** is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights, and things growing on, affixed to or found in land.
- (b) ***“Property”*** means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chose in action or other intangible rights.
- (c) ***“Property of another”*** includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.
- (d) ***“Resident”*** has the meaning given in Wis. Statutes, Section 940.295 (1)(p).
- (e) ***“Value”*** means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

(2) **Theft Prohibited**

Whoever does any of the following may be penalized as provided in 15.04:

- (a) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of moveable property of another without the others consent and with intent to deprive the owner permanently of possession of such property.
- (b) By virtue of his or her office, business, or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner’s consent, contrary to his or her authority, and with intent to convert to his or her use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his or her possession or custody by virtue of his or her office, business or employment, or as a trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his or her own use within the meaning of this paragraph.
- (c) Having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a

superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.

- (d) Obtains title to property of another person by intentionally deceiving the person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- (e) Intentionally fails to return any personal property which is in his or her possession or under his or her control by virtue of a written lease or written rental agreement, within 10 (ten) days after the lease or rental agreement has expired.

(3) **Penalties:**

Whoever violates this section, shall, upon conviction shall be subject to a penalty as provided in Section 15.04(1) of this code.

12.13 FRAUD

(1) **Fraud Prohibited.**

Whoever does any of the following may be penalized as provided in 12.13(3):

- (a) Having obtained any beverage, food, lodging, ticket or other means of admission, or other service or accommodation at any campground, hotel, motel, boarding or lodging house, restaurant, or recreational attraction, intentionally absconds without paying for it.
- (b) While a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of the relationship as guest.
- (c) Having obtained any transportation service from a taxicab operator, intentionally absconds without paying for the service.
- (d) Having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail, intentionally absconds without paying for the gasoline or diesel fuel.

(2) **State Statute Adopted.**

All provisions of §943.21 of the Wisconsin Statutes, and any amendments thereto, with the exception of any criminal penalties and forfeitures, are adopted, and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by the statute incorporated herein by reference is required or prohibited by this chapter.

(3) **Penalties:**

Whoever violates this section, shall, upon conviction shall be subject to a penalty as provided in Section 15.04(1) of this code.