

CHAPTER 13 PUBLIC NUISANCES

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13.01 PUBLIC NUISANCES PROHIBITED

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

13.02 DEFINITIONS

- (1) **Public Nuisance** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
 - (b) In any way render the public insecure in life or in the use of property.
 - (c) Greatly offend the public morals or decency.
 - (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.
- (2) **Public Nuisances Affecting Health** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of sub. (1) of this section:
- (a) All decayed, harmfully adulterated or **unwholesome food or drink** sold or offered for sale to the public.
 - (b) **Carcasses of animals, birds or fowl** not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
 - (c) **Accumulations of decayed** animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
 - (d) All **stagnant water** in which mosquitoes, flies or other insects can multiply.
 - (e) **Privy vaults and garbage cans** which are not fly-tight.

- (f) **All noxious weeds** and other rank growth of vegetation.
- (g) **All animals running at large.**
- (h) The **escape of smoke, soot, cinders**, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the City limits or within one (1) mile there from in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the City.
- (i) The **pollution of any public well or cistern**, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (j) Any use of property, **substances** or things within the City of Augusta emitting or **causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors**, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.
- (k) All **abandoned wells** not securely covered or secured from public use.
- (l) Any use of property which shall cause any nauseous or **unwholesome liquid** or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the City.
- (m) The owner of any **domestic animal** shall promptly dispose of in a sanitary manner **any excreta deposited** by such animal on any public or private property.

Whereas, the City Council finds that the use of **cleated horseshoes** causes unreasonable damage to pavement on city streets and alleys during warm weather months, the following ordinance is hereby ordered:

- (n) Only **flat soled horseshoes** shall be permitted on city streets during the months of May through October each year.
- (o) All **horse drawn** implements operated within the City limits of the City of Augusta, shall be equipped with manure catching devices.
- (p) **Regulating Solid Fuel-Fired Outdoor Heating Devices.** Definitions:
 - 1. "Solid Fuel-Fired Outdoor Heating Device" means an outdoor device designed or made for solid fuel combustion so that the usable heat is derived for the interior of buildings.
 - 2. The construction or use of "Solid Fuel-Fired Outdoor Heating Devices" within the CITY LIMITS of Augusta is prohibited.

- (3) **Public Nuisances Offending Morals and Decency** The following acts, omissions, places, conditions and things are hereby specifically declared to the public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of sub. (1) of this section.
- (a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
 - (b) All gambling devices and slot machines.
 - (c) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinance of the City of Augusta.
 - (d) Any place or premises within the City of Augusta where City ordinances or State laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly and intentionally violated.
 - (e) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the City.
- (4) **Public Nuisances Affecting Peace and Safety** The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of sub. (1) of this section:
- (a) All sign, billboards, awnings and similar structures extending over the sidewalks or extending beyond the sidewalks into the streets on any street in the City of Augusta without first obtaining written permission from the Common Council of the City of Augusta; and all posters, notices, or bills placed on utility posts or poles within the City of Augusta except notices placed thereon by the utility company itself.
 - (b) All buildings erected, repaired or altered within the fire limits of the City of Augusta in violation of the provisions of the ordinances of the City, relating to materials and manner of construction of buildings and structures within said district.
 - (c) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purpose to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal.
 - (d) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of

traffic when approaching an intersection or pedestrian crosswalk.

- (e) All limbs of trees which project over and less than fourteen feet (14') above the surface of a public sidewalk or street or less than ten feet (10') above any other public place.
- (f) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the City.
- (g) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (h) All wires over streets, alleys or public grounds which are strung less than fifteen feet (15') above the surface thereof.
- (i) All loud, discordant and unnecessary noises or vibrations of any kind.
- (j) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.
- (k) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished.
- (l) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (m) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- (o) Repeated or continuous violations of the ordinances of the City or laws as provided in s. 6.06 of this code of Eau Claire County or the laws and regulations of the State of Wisconsin.
- (p) All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in s. 6.06 of this code.
- (q) Any accumulation of debris, rubbish, trash, garbage, inoperable vehicles or machinery stored contrary to 11.06 of the city ordinances, inoperable machinery or parts thereof, or any other physical thing kept or maintained on real estate in the city if the keeping or maintaining of such personal property is contrary to law

or contrary to any city ordinance, including zoning.

- (r) Any accumulation of (vehicles) (motor vehicles) in excess of five on any premises in the City unless such premises are zoned Heavy Industrial District and the premises comply with any permit issued for such use.

(5) **Unlawful Use of Electronic Communication Devices**

No person shall do any of the following:

- (a) With intent to frighten, intimidate, threaten, abuse or harass, uses an electronic communication device and threatens to inflict injury or physical harm to any person or the property of any person.
- (b) With intent to harass or offend, uses an electronic communication device while using any obscene, lewd or profane language or suggests any lewd or lascivious act or creates writings of the same.
- (c) By way of an electronic communication device, makes or causes to be made, repeated attempts to contact another with intent solely to harass any person.
- (d) Uses an electronic communication device, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person.
- (e) Knowingly permits any electronic communication device under his or her control to be used for any purpose prohibited by this section.

(6) **Sexting**

(a) **FINDINGS.**

The Common Council of Augusta has determined that the sharing of explicit images and related activities between minors represents a concern for the health, safety, welfare, peace and order to the citizens of the City of Augusta. The Council has further determined that prohibiting sharing of explicit images and related activities between minors will serve to deter such activities within the City.

(b) **DEFINITIONS.**

For the purposes of this Subsection:

1. “Nudity” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a noticeably erect state. A mother’s breastfeeding of her baby does not under any circumstance constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to feeding.
2. “Harmful to Minors” means any reproduction, imitation, characterization, description, exhibition, presentation, or representation of whatever kind or

form, depicting nudity, sexual conduct, or sexual excitement when it:

- i. Predominantly appeals to an indecent, shameful, or morbid interest;
- ii. Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;
- iii. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

3. “Minor” means any person under the age of 18 years

(c) A minor commits the offense of sexting if he or she knowingly:

1. Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined in this subsection, and is harmful to minors as defined in this subsection.
2. Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined above, and is harmful to minors, as defined above. A minor does not violate this paragraph if all of the following apply:
 - i. The minor did not solicit the photograph or video.
 - ii. The minor took reasonable steps to report the photograph or video to a school or law enforcement official.
 - iii. The minor did not transmit or distribute the photograph or video to a third party other than a law enforcement official.
3. Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any text message, correspondence or message of a sexual nature when it:
 - i. Predominantly appeals to an indecent, shameful, or morbid interest;
 - ii. Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;
 - iii. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.
4. Solicits the transmission or distribution of any text, correspondence, message, photograph or video from another minor that would itself be prohibited under this Subsection.

13.03 ABATEMENT OF PUBLIC NUISANCES

- (1) **Inspection of Premises** Whenever a complaint is made to the City Mayor that a public nuisance exists within the City of Augusta, he shall promptly notify the Chief of Police, Health Officer or Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the City Mayor. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall find the same in the office of the City Clerk.
- (2) **Summary Abatement**
 - (a) **Notice to Owner** If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, morals or decency, the City Mayor may direct the Chief of Police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty four (24) hours and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, nuisance, as the case may be.
 - (b) **Abatement by City** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Health Officer, in case of health nuisances, and the Chief of Police, in other cases, shall cause the abatement or removal of such public nuisance.
- (3) **Abatement by Court Action** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the City Mayor, who shall cause an action to abate such nuisance to be commenced in the name of the City in the circuit court of Eau Claire County in accordance with the provisions of §Ch. 280.
- (4) **Other Methods Not Excluded** Nothing in this ordinance shall be construed as prohibiting the abatement of public nuisances by the City of Augusta or its officials in accordance with the laws of the State of Wisconsin.

13.04 COST OF ABATEMENT

In addition to any other penalty imposed by this ordinance for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

13.05 PENALTY

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in s. 15.04 of this code. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.