

**CHAPTER 11
PUBLIC NUISANCES**

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11.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City.

11.02 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

(2) **PUBLIC NUISANCE OFFICER.** A Public Nuisance Officer, for the purposes of this ordinance, shall be the Chief of Police, Chief of the Fire Department, Building Inspector and Municipal Health Officer.

(3) **NUISANCE ACTIVITY.** Any of the following activities, behaviors, or conduct occurring on a premises:

(a) An act of Harassment, as defined in ss 947.013 Wis. Stats.

(b) Disorderly Conduct, as defined in Ch. 10.03 Algoma Municipal Code and 947.01 Wis. Stats.

(c) Possession, Manufacture, or Delivery of a Controlled Substance or related offenses as defined in Ch. 961, Wis. Stats.

(d) Alcohol violations as defined in ss. 125.07, Wis. Stats.

(e) Truancy related violations

(f) Any conspiracy to commit, as defined in ss. 939.31 Wis. Stats., or attempt to commit, as defined in ss. 939.32, Wis. Stats. any of the activities, behaviors, or conduct enumerated in 11.02 (2) of Algoma Municipal Code

(4) **OWNER.** The owner of the premises and his or her agents.

(5) **PREMISES.** An individual dwelling unit, an apartment building (all units included as one premises), or an individual business premises and associated common areas, or any landed or riparian area with or without improvements, located in the city of Algoma.

(6) **CONTINUING ORDINANCE VIOLATION.** Any violation of the City of Algoma Municipal Ordinance contained in this section, that is not corrected to the satisfaction of the public nuisance officer, after a reasonable period of time (or within a period of time as set forth in the applicable subsections of this ordinance) after notice from the City to a responsible party is considered a continuing public nuisance under this chapter.

(7) **PUBLIC NUISANCES AFFECTING HEALTH.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of subsection (1) of this section:

(a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(b) Carcasses of animals, birds or fowl not intended for human consumption of food which are not buried or otherwise disposed of in a sanitary manner within 12 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.

1. Mowing Required. No person owning property within the City shall permit to grow or pollinate upon his premises any weeds or grasses which are offensive to neighboring property owners, weeds or grasses which cause or produce hay fever in humans, exhale unpleasant or noxious odors, or conceal filthy deposits. In order to prevent such growth and pollination, every property owner shall mow or cause to be mowed upon his premises all grasses or weeds exceeding one foot in height.

2. Notification. Any person failing to mow or cause to be mowed grasses or weeds shall, after receiving three days written notice from the Weed Commissioner, be cited as per Section 20.04 of the Municipal Code. Each day that the property is not mowed constitutes a separate violation.

3. Mowing by City. After notification by the Weed Commissioner of a violation, any property owner who wants his property mowed by the City must make arrangements with the Weed Commissioner. These arrangements must be made within the 3-day notification period. If mowing is done by the City the property owner will be billed for the service by the City Clerk. If not paid, the amount due will be placed on the tax roll as a special charge.

(g) All animals running at large. No person shall permit any animal to run at large in the City at any time. Owners or custodians of any animal shall confine it to within the limits of their premises or property except when such animal is under control by a leash of not more than six (6) feet in length. For purposes of this section "running at large" embraces all places within the City except the owner or custodian's premises or any area designated as a dog exercise area by the City of Algoma. No animals shall be allowed in any public park with the exception of DeMeuse Park, in the City at any time even if they are under leash control.

(h) 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.

(i) Any use of property, substances or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses or ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

(j) All abandoned wells not securely covered or secured from public use.

(k) 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.

(l) The emission or escape into the open air of such quantities of smoke, ash, dust, soot, cinders, acid or fumes, dirt or other material or noxious gases in such place or manner as to cause injury, detriment or nuisance to any appreciable number of persons within the City.

(8) PUBLIC NUISANCES OFFENDING MORAL AND DECENCY. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection (1) 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 purposes 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 of license as provided for by the ordinances of the City.

(d) Any place or premises within the City where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(9) PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (1) of this section.

(a) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(b) All buildings erected, repaired and altered within the City in violation of the provisions of the ordinances of the City, relating to materials and manner of construction of buildings and structures within 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 purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.

(d) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(e) All limbs of trees which project over and less than 10 feet above the surface of a public sidewalk or street or other public place.

(f) All use of 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 and 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 that are strung less than 18 feet above the surface thereof.

(i) All loud, discordant and unnecessary noises or vibrations of any kind.

(j) 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.

(k) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(l) All abandoned refrigerators, iceboxes or other containers which have air-tight doors from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(m) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(n) Repeated or continuous violations of the ordinances of the City or laws of the State of Wisconsin relating to the storage of flammable liquids.

(o) All snow and ice not removed as provided in Section 8.11 of this Code.

(p) The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking crowing, or making or other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.

(q) All use or maintenance of building exteriors or surrounding premises which limits the use or enjoyment of neighboring property or which causes or tends to cause diminution of the value of the property of others in the neighborhood in which such premises is located by reason of:

- a. Exterior storage of scrap lumber, junk, trash, or other debris, including, without limitation of enumeration, discarded objects or equipment such as motor vehicles, furniture, appliances, building materials or litter.
- b. Exterior patchwork, repair, or reconstruction that results in a multi-textured or multi-colored effect or appearance not consonant with the décor, architectural design, or aesthetics of the rest of such building.

11.03 DUTCH ELM DISEASE.

(1) PUBLIC NUISANCE. No person shall permit any of the following public nuisances to remain on any premises owned or controlled by him within the City:

(a) Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus, or which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh) or the *Hylourgopinus Rufipes* (Marsh).

(b) Any dead elm tree, or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned, or sprayed with an effective elm bark beetle destroying insecticide.

(2) COST OF ABATEMENT. The entire cost of abating any such public nuisance or of spraying any elm tree or part thereof, may be chargeable to and assessed against the parcel or lot abutting on the street, alley, or parkway upon or in which such tree is located, or the parcel or lot upon which such tree stands. The cost of abating any such nuisance or spraying any elm tree or part thereof, which is located in or upon any park or public grounds shall be borne by the City.

(3) TRANSPORTING OF ELM WOOD PROHIBITED. No person shall transport within the City any bark bearing wood or material without first securing written permission of the Street Superintendent.

11.04 ABATEMENT OF PUBLIC NUISANCES.

(1) ENFORCEMENT. The Chief of Police, the Chief of the Fire Department, the Building Inspector and Health Officer shall enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.

(2) SUMMARY ABATEMENT. If the inspection officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Chapter 11.04 of the Algoma Municipal Code. The notice shall order abatement of the nuisance within a period of not less than 24 hours or greater than seven (7) calendar days and shall state that unless the nuisance is so abated, the Mayor may direct the proper officer to cause the same to be abated and to charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be, and if notice has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(3) NON SUMMARY ABATEMENT. 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 serve notice on the person causing or maintaining the nuisance pursuant to Chapter 11.05 of the Algoma Municipal Code to abate the same within 10 days. If such nuisance is not abated within such 10 days, the proper officer shall cause the nuisances to be abated as provided in sub. (2) and will charge the cost thereof to the owner, occupant, or person causing, maintaining, or permitting the nuisance; and if the notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge. If the public nuisance involves felony drug type conduct, a notice to abate the nuisance shall be mandatory.

(4) ABATEMENT BY COURT ACTION. If an officer determines that a public nuisance exists, the officer may refer the nuisance to the City Attorney for review. If the City Attorney determines that alternative enforcement methods have failed to abate the nuisance or that if a more formal action, in Circuit Court is appropriate, the City Attorney may commence an action for injunctive relief of nuisance, on behalf of the City of Algoma, as Plaintiff, in accordance with the Wisconsin Rules of Civil Procedure and that no bond shall be necessary for the City to commence such action.

(5) ABATEMENT PLAN. If an officer determines that a public nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, the officer may order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a conference to discuss abatement of the nuisance. If the public nuisance involves felony drug type conduct, the officer shall order the owner, occupant, or person causing, maintaining, or permitting the nuisance to appear for a conference to discuss abatement of the nuisance. The conference shall include the Public Nuisance Officer and City of Algoma City Administrator, with a written resolution of the meeting being rendered as a report. Notice of such conference shall be issued and served by the Public Nuisance Officer pursuant to Chapter 11.04 of the Algoma Municipal Code. The parties may formulate an abatement plan which indicates the measures to be taken by the owner, occupant, or person causing, maintaining, or permitting the nuisance to abate the nuisance.

(6) NOTICE TO ABATE. The officer may attempt personal service on the owner, agent of the owner, occupant or other person causing, maintaining or permitting the nuisance at such person's last known address. If this attempt is unsuccessful or impractical, the officer shall post a copy of the notice in a conspicuous place in or about the building where the nuisance exists and send notice by first class mail to the last known address of the owner or agent of the owner.

(7) REMEDY FROM ABATEMENT ORDER. Any person adversely affected by an order under this chapter shall, prior to the abatement date, apply to the Circuit Court of Kewaunee County for immediate injunctive relief, and that this be considered the only remedy against action of the city.

(8) NON ABATEMENT PROHIBITED.

1. FAILURE TO COMPLY WITH ORDER TO ABATE. No person shall fail to comply with a lawful order to abate a public nuisance issued pursuant to the section. Each day of non-compliance with a lawful order to abate issued pursuant to this section shall be considered a separate violation.
2. FAILURE TO APPEAR FOR CONFERENCE. No person shall fail to comply with an order to appear for an abatement conference pursuant to Ch. 11.04(4) Algoma Municipal Code.
3. FAILURE TO OBSERVE ABATEMENT PLAN. No person shall fail to comply with the terms of an abatement plan.

(9) OTHER METHODS NOT EXCLUDED. The City or its officials in accordance with the laws of the State of Wisconsin shall construe nothing in this chapter as prohibiting the abatement of public nuisances.

11.05 CHRONIC NUISANCE PREMISES. Whenever the Public Nuisance Officer determines that three or more nuisance activities as defined in Ch. 11.02(2) resulting in enforcement action have occurred at a premises during a 12 month period, the City may notify the premises owner in writing. In calculating the requisite nuisance activities, the Public Nuisance Officer may count separate qualifying nuisance activities resulting in enforcement action occurring the same day (as long as they are distinct in time) or different days, but shall never count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to appeal rights of the owner. The notice shall be delivered pursuant to Ch. 11.04(7) of Algoma Municipal Code.

1. **ABATEMENT PLAN.** Any owner receiving notice pursuant to 11.04(7) shall meet with the Chief of Police, or his/her designee, within 5 days of receipt of such notice. The parties shall review the problems occurring at the property. Within 10 days of this meeting, the owner shall submit to the Chief, or his designee, an abatement plan to end the nuisance activity on the property. The plan shall also specify a name, address, and telephone number of a responsible person with authority to act on the owner's behalf, living within 60 miles of the property who can be contacted in the event of further police, fire or inspection contact.

2. **ADDITIONAL NUISANCE ACTIVITY.** Whenever the Chief of Police determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to Ch. 11.05 of Algoma Municipal Code, that this nuisance has occurred not less than 15 days after notice has been issued, and that reasonable efforts have not been made to abate the nuisance activity, the Chief of Police may calculate the cost of police response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

3. **APPEAL.** Appeal of the determination of the Public Nuisance Officer pursuant to Ch. 11.05 of the Algoma Municipal Code may be submitted to the Protection of Persons And Property Committee of the City of Algoma and that determination will be considered as act of the municipality. Chapter 68, Wis. Stats. Shall not apply to such an appeal.

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

11.07 JUNK, KEEPING AND REMOVAL OF.

(1) No disassembled, inoperable, junked, wrecked or unlicensed motor vehicles and no disassembled inoperable, junked or wrecked boats, refrigerators, ice boxes, appliances, machinery and the like, shall be stored or allowed to remain in the open upon public or private property within the City, for more than 7 days unless it is used in connection with

an automotive sales or repair business enterprise, or junk yard located in a properly zoned area.

(2) Whenever the Police Department shall find such vehicles or equipment placed or stored in the open upon public property within the City, he shall cause such vehicles to be removed by junk, salvage yard, or repair facility or other proper business for a period of 30 days at the end of which time such junk, salvage yard or repair facility or other proper business shall dispose of such vehicle or equipment, unless previously claimed by the owner.

(3) Whenever the Police Department shall find any such vehicles or equipment placed or stored in the open upon private property within the City, he shall notify the owner of the property upon which such vehicles or equipment are placed or stored of the intention of the City to remove such vehicles immediately. If such vehicles are not removed within 7 days, the Building Inspector shall cause such vehicles or equipment to be removed, the costs of such removal to be charged to the property from which they are removed, which charges shall be entered as a special charge on the tax roll.

(4) If such vehicles or equipment are claimed by the owner, the junk, salvage yard or repair facility or other proper person shall charge a reasonable fee for handling storage.

(5) The provisions of this section shall not apply to all salvage yards, junkyards, or repair facilities that are duly licensed under the ordinance provisions of the City pertaining to any such operations.

(6) This section shall not permit auto salvage or junkyards within the City.

(7) Any person who shall interfere in any way whatsoever with the due process of enforcement of any of the provisions of this section shall be found guilty thereof, shall be subject to a penalty as provided for under section 11.07 of the Municipal Code of the City. Each motor vehicle or items enumerated herein involved shall constitute a separate offense, being a public nuisance and detriment to the public health and welfare of the citizens of the City of Algoma, Wisconsin.

11.08 PRIVATE NUISANCE ACTIONS. Nothing in this ordinance shall bar a private cause of action in private nuisance and abatement sought by a private citizen; and the City may elect to appear as a Plaintiff intervenor in that private action if it so elects.

11.09 PENALTY. Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a penalty as provided in Sec. 20.04 of this Municipal Code.