

CHAPTER 17-PUBLIC NUISANCES

CITY OF FENNIMORE

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17.01 PUBLIC NUISANCES PROHIBITED

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

17.02 DEFINITIONS

- (1) Public Nuisances. 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.
- (2) Public Nuisances Affecting Health. The following acts, omissions, places,

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conditions and things are hereby specifically declared to be public health nuisances, but 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 buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (c) Accumulations of decayed animal or vegetable matter, trash, rubbish, recyclable materials, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying or dangerous insects, rats or other vermin may breed or which attract sufficient quantities of such insects or vermin so as to create a health or safety hazard.
- (d) All stagnant water in which mosquitoes, flies or other insects can multiply.
- (e) Garbage cans which are not sanitary.
- (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 or industrial dust within the City limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (i) The pollution of any public well or cistern, stream, industrial wastes or other substances.
- (j) Any use of property, substances or things within the City of Fennimore or within four miles thereof, emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, 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.
- (k) All abandoned wells not securely covered or secured from public use.
- (l) The keeping of any animals in the City in an unsanitary manner, and the accumulation of manure from any animals which is not covered or buried in a sanitary manner.

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- (3) Public Nuisances Offending Morals 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 purpose of prostitution, promiscuous sexual intercourse or gambling.
 - (b) All illegal 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 by the ordinances of the City of Fennimore.
 - (d) Any place or premises within the City of Fennimore where City ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and/or intentionally violated.
 - (e) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages or consuming narcotics in violation of the laws of the State of Wisconsin or the 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 and safety coming within the provisions of subsection (1) of this section:
- (a) All ice not removed from public sidewalks and all snow not removed from public sidewalks within 12 hours after it has ceased to fall thereon. The obligation to remove said snow and ice shall be that of the land owner adjacent to the sidewalk, which obligation extend in the case of a corner lot, to the curb line of the street.
 - (b) All signs and billboards, awning, 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.
 - (c) All unauthorized signs, signals, markings and devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.
 - (d) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a

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clear view of traffic when approaching an intersection or pedestrian crosswalk.

- (e) All limbs of trees which project over a public sidewalk less than 10 feet above the surface thereof or less than 16 feet above the surface of a public street (Reference Chapter 5.08(4)(e) of the Fennimore Municipal Code).
- (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, insanitary or otherwise unfit for human use.
- (h) All wires over streets, alleys, sidewalks or public grounds which are strung less than 15 feet above the surface of the street or ground.
- (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 any neighborhood or person of ordinary sensibilities within the City.
- (k) All obstructions on 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 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 and any unused basement or building excavation or foundation regardless of whether it is open or unguarded which remains in existence for more than ninety (90) days after either the commencement of construction of a building under a valid building permit or the removal or demolition of an existing building.
- (m) All abandoned refrigerators, iceboxes, freezers and all other refrigerators, iceboxes and freezers which are stored outside, from which the doors or other covers have not been removed or which are not equipped with a device for opening from the inside or from which the lock mechanism has not been removed.
- (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.

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- (o) Repeated or continuous violations of the ordinances of the City or laws of the State of Wisconsin relating to the storage of flammable liquids.
- (p) The parking of any motor vehicle, automobile, truck, semi-truck and/or trailer with the engine, refrigeration unit or other motor running, or with livestock or fowl or any other cargo which makes a noise so as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public or any person in the City of Fennimore.

17.025 CONTROL OF WEEDS AND GRASSES

- (1) Control of Noxious Weeds and Grasses. No person owning property within the City of Fennimore shall permit to grow or pollinate upon his premises any noxious weeds as defined in §66.0407, Wis. Stats. No person owning property within the City of Fennimore shall permit to grow or pollinate upon his premises any weeds or grasses which cause or produce hay fever in human beings, exhale unpleasant or noxious odors or conceal filthy deposits.
- (2) No owner or occupant of residential property within the City of Fennimore shall permit the lawn on such property to exceed the height of 5 inches. This section shall apply regardless of whether the property is occupied or unoccupied but shall not apply to undeveloped subdivision lots.
- (3) Mowing by City. It shall be the duty of the Director of Public Works or designee to enforce §17.025 of this Code, and if any person shall fail to comply with said section the Commissioner shall cause the premises to be mowed and shall report the cost thereof in writing to the City Clerk in the manner provided in §66.0517, Wis. Stats. Such charge shall be placed on the tax roll as a special tax to be collected in the same manner as other taxes unless such lands are exempt from taxation.

17.03 ABANDONMENT OF VEHICLES AND STORAGE OF VEHICLE PARTS

- (1) This section is applicable to all streets and highways in the City of Fennimore along with private or public properties located in districts zoned Agricultural, Residential, Highway Residential, or Conservancy as defined by Chapter 19 of the Fennimore Municipal Code.
- (2) Definition of "Vehicle". For purposes of this section, in addition to the definition provided by § 340.01(74) of the Wisconsin State Statutes, the definition of vehicle shall also include snowmobiles, all-terrain vehicles, utility terrain vehicles, boats, implements of husbandry, road machinery and similar devices.

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- (3) Vehicle Abandonment Prohibited. No person shall leave any vehicle on any public street or highway or public or private property under circumstances as to cause the vehicle to reasonably appear to have been abandoned. A vehicle belonging to any person other than a motor vehicle dealer licensed by the State of Wisconsin or person who has properly obtained a permit under this section shall reasonably appear to have been abandoned and constitutes a public nuisance under the following conditions:
- (a) Is not licensed for highway use as required by Wisconsin State Statutes, is inoperable or has been left unattended on any city street, highway, or public property for more than 72 hours.
 - (b) Is not licensed for highway use as required by Wisconsin State Statutes, is inoperable or has been left unattended on any private property for more than one week and the same is not surrounded by fences or walls to prevent the same from being seen by the public.
 - (c) Is otherwise left in a state or condition on any city street, highway, public or private property which would cause a reasonable person to believe the vehicle is not actively serving a purpose other than for storage or for being stored.
- (4) Removal of Abandoned Vehicles. Any vehicle in violation of this chapter may be removed at the request of the police department until lawfully claimed or disposed of under § 779.415 of the Wisconsin State Statutes.
- (5) No person shall accumulate or store vehicle parts outside of any building on any public or private property without a permit properly obtained under this section. “vehicle parts” shall include all parts of and from vehicles as described in paragraph (2).
- (6) Temporary Storage Permits. Any person who wishes to temporarily store an abandoned vehicle or vehicle parts may apply for a permit from the City Clerk. The applicant shall file an application for temporary storage on a form provided by the City Clerk’s office and shall pay a \$5.00 application fee. Upon receipt of the application, the City Clerk shall refer the application to the Police Department for investigation which may include viewing the premises and materials which are the subjects of the application. After completing the investigation, the investigating officer shall make a recommendation to the City Clerk as to whether the permit should be granted or denied. A recommendation for denial shall state the reason therefore. Upon receipt of the recommendation, the City Clerk shall either grant or deny the issuance of the permit. The permit shall be effective for no more than thirty (30) days. Any person who is granted a permit and who

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requires an extension may, at least five (5) business days prior to the expiration date of the original permit, apply for an extension of the permit. Upon application for such extension, a fee of \$5.00 shall be paid and the same investigation process shall be used as was done at the time of the initial application. No permit may be extended more than twice. An application fee shall be paid, and investigation shall be completed for each application regardless of whether the application is for an original permit or an extension thereto. No more than two permits per mailing address may be held concurrently.

17.04 ABATEMENT OF PUBLIC NUISANCES

- (1) Inspection of Premises. Whenever complaint is made to any City officer that a public nuisance exists within the City of Fennimore, he shall promptly notify the Director of Public Works, or the Chief of Police who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Mayor. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Mayor.
- (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 a great or immediate danger to the public health, safety, peace, morals or decency, the 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 causing, permitting, or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 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, occupant or person causing, permitting or maintaining the 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 Chief of Police 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 and the nature of such nuisance is not such as to threaten great and immediate danger to the health, safety, peace, morals or decency, he shall file a written report of his or her findings with the Mayor who shall cause an action to abate such nuisance to be commenced in the name of the City in Circuit Court pursuant to Chapter § 823, Wis. Stats..

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- (4) Razing Buildings. As an alternative to other methods of abatement provided in this chapter, the Common Council may proceed under § 66.0413, Wis. Stats, to issue a raze order or obtain such an order in Circuit Court.
- (5) Other Methods Not Excluded. Nothing in this section shall be constructed as prohibiting the abatement of public nuisances by the City of Fennimore or its officials in accordance with the laws of the State of Wisconsin.

17.05 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 City may collect the cost of abating said nuisance as a debt from the owner, occupant or person causing or permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost may be assessed against the real estate as a special charge.

17.06 PENALTIES

The penalty for any violation of any provision of this chapter for which a specific penalty is not enumerated shall be that provided in §25.04 of this Code. A separate offense shall be deemed committed for each day or part thereof during which a violation occurs or continues.

17.07 PROHIBITED DISCHARGES

- (1) Prohibited Discharges. No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public street, alley or public property, or onto the ground, surface waters, subsurface waters, or aquifers, or on any private property within the City, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above Nuclear Regulatory Restriction levels, etiologic agents, or any solid, liquid or gas creating hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.
- (2) Containment, Cleanup and Restoration. Any person, firm or corporation in violation of the above section shall, upon the direction of any police officer, begin immediate actions to contain, cleanup and remove to an approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm or corporation being responsible for all expenses incurred. Should any person, firm or corporation fail to engage the necessary men and equipment to comply or to complete the requirements of this section, the City Council may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the City of Fennimore.

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- (3) **Site Access.** Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to the City officers and staff and the City Police and Fire department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.
- (4) **Public Protection.** Should any prohibited discharge occur that threatens the life, safety or health of the public at, near, or around the site of a prohibited discharge, and that the situation is so critical that immediate steps must be taken to protect life and limb, the senior City police or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the City Council can take appropriate action.
- (5) **Enforcement.** The City Police Officers shall have the authority to issue citations or complaints under this section.
- (6) **Civil Liability.** Any person, firm or corporation in violation of this section shall be liable to the City of Fennimore for any expenses incurred by the City or loss or damage sustained by the City by reason of such violations.
- (7) **Penalties.** Any person, firm or corporation in violation of this section shall forfeit to the City of Fennimore upon conviction thereof a sum not to exceed Two Hundred Dollars (\$200.00) plus the costs of prosecution and in default of payment thereof, imprisonment in the County Jail for ten (10) days. Each day a violation shall constitute a separate offense.

17.08 OUTDOOR SOLID FUEL HEATING DEVICES

- (1) **Definitions.** The following definitions shall be applicable herein:
 - (a) **Solid Fuel-Fired Heating Device.** An outdoor device or structure designed (i) for solid fuel combustion; and (ii) for the purpose of providing indoor heat including, but not limited to, combination fuel furnaces or boilers which burn solid fuel.
 - (b) **Stacks or chimneys.** Any vertical structure enclosing a flue or flues that carry off smoke or exhaust from a solid-fuel fired heating device or structure, including that part of the structure extending above a roof.
 - (c) **Public Nuisance.** All solid fuel-fired heating devices without a stack or chimney of at least 17 feet in height measured from the ground at and on which the device is located shall be considered a public nuisance within the City and are banned.

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17.09 ANIMAL FECES

- (1) It shall be unlawful for any person to cause or permit any animal, specifically including, but not limited to, dogs, horses, and cats, to be on property, public or private, including public rights-of-way or in any park in the City, that is not owned or possessed by such person unless such person has in his or her immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. Any person causing or permitting a dog, horse, or cat to be on property, including public rights-of-way or in any park in the City, that is not owned or possessed by such person shall immediately remove all excrement of such dog, horse, or cat to a receptacle located upon property owned or possessed by such person. "Public right-of-way" includes streets and bridges and includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purpose of travel and includes the sidewalk and terrace to the roadway.
- (2) As an alternative to the requirements of (1), horses, mules and other animals may be equipped with adequate devices including, but not limited to, a diapering apparatus, to prevent manure and other excrement from being deposited or left upon public rights of way, parks or upon other public or private property not owned or possessed by the person utilizing any such animal. It shall be the responsibility of the person utilizing any such animal to see that the diapering apparatus or similar device is maintained in working order and to remove any excrement which should fall as required under (1).
- (3) This section shall not apply to a person who is visually or physically handicapped.
- (4) Any person violating this section shall be subject to a forfeiture as provided under § 17.06 and § 25.04. The deposit for a violation of this section shall be \$20.00 for a first offense and \$50.00 for second and each subsequent offense as defined under § 25.04(1)(b).

17.10 BEE-KEEPING

- (1) No person shall establish, possess or maintain any hive, colony or swarm of bees for any purpose whatsoever within the City limits.
- (2) Any person violating this section shall be subject to a forfeiture as provided under § 17.06 and § 25.04. The deposit for a violation of this section shall be \$20.00 for a first offense and \$50.00 for second and each subsequent offense as defined under § 25.04(1)(b).