CITY OF STOUGHTON, 207 S. Forrest Street, Stoughton, WI 53589

ORDINANCE OF THE COMMON COUNCIL			
Repealing and Recreating Sections 58-1 through 58-13 of the Stoughton Municipal Code Chapter 58 Relating to Public Nuisances Committee Action: Fiscal Impact: None			
File Number:	O -2- 2022	**Date Introduced:**	January 25, 2022 February 8, 2022

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

1. Chapter 58, Sections 58-1 through 58-13, of the Stoughton Municipal Code is repealed and recreated to provide as follows:

Chapter 58 PUBLIC NUISANCES

Sec. 58-1. Public nuisances prohibited.

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

(Code 1986, § 10.01)

Sec. 58-2. Public nuisance defined.

Any of the following is a ~~A~~ public nuisance:

(a) Any ~~is a~~ act, occupation, condition or use of property which shall continue for such length of time as to:

(1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.

(2) In any way render the public insecure in life or in the use of property.

(3) Greatly offend the public morals or decency.

(4) 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.

(b) A violation of this Chapter 58.

(c) A violation of Section 10-318.

(Code 1986, § 10.02)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 58-3. Penalty.

Any person who shall violate any provision of this chapter or permit or cause a public nuisance shall be subject to a forfeiture as provided in section 1-3.

(Code 1986, § 10.08)

Sec. 58-4. Open cisterns, wells, basements or other dangerous excavations prohibited.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the cover cannot be removed by small children.

(Code 1986, § 9.02(7))

Sec. 58-5. Abandoned or unattended iceboxes, etc., prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing such door or lid, snap lock or other locking device from the icebox, refrigerator or other container unless it is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

(Code 1986, § 9.02(8))

Sec. 58-6 Abatement—Generally.

(a) *Responsibility for enforcement; inspections.* It shall be the duty of each department head to enforce those provisions of this chapter that come within the jurisdiction of their respective offices, and each department head shall make or cause to be made periodic inspections and inspections upon complaint to ensure such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself or herself that a nuisance does in fact exist.

(b) *Summary abatement.*

(1) *Order of abatement.* If the inspecting officer determines that a public nuisance exists within the city and that there is imminent danger to the public health, safety or peace, the officer may, without notice or hearing, issue an order reciting the existence of a public nuisance constituting imminent danger to the public and requiring immediate action be taken as the officer deems necessary to abate the nuisance. Notwithstanding any other provisions of this chapter, the order shall be effective immediately. Any person to whom such order is directed shall comply with the order immediately.

(2) *Abatement by city.* Whenever the owner or occupant shall refuse or neglect to remove or abate the condition described in the order, the inspecting officer shall, in his or her discretion, enter upon the premises and cause the nuisance to be removed or abated and the city shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(c) *Nonsummary abatement by city.*

(1) *Order to abate nuisance.* If the inspecting officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety or peace, the officer shall issue an order reciting the existence of a public nuisance and requiring the person causing, permitting or maintaining the public nuisance or the owner of the premises where the public nuisance is located to remove or abate the condition described in the order by a date specified therein (the abatement date). The order shall be served personally on such person and the owner if different, and, at the option of the inspecting officer, the order may be mailed to the last known address of the person(s) to be served. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the property or by publishing as a Class 3 notice under Wis. Stats. ch. 985. The time limit specified in the order runs from the earlier of the date of posting, service or publication.

(2) *Abatement by city.* If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting officer shall enter upon the premises and cause the nuisance to be removed or abated and the city shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

(3) *Remedy from abatement order.* Any person affected by an order under this section shall, prior to the abatement date, apply to the circuit court for an order restraining the city from entering on the premises and abating or removing the nuisance, or be forever barred.

(d) *Authority to assess costs.* The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(e) *Abatement in accordance with state law.* Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under Wis. Stats. ch. 823, and to enforce any judgment entered in such action.

(f) *Other action.* If the inspecting officer determines that a public nuisance exists within the city, the officer may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner of the premises where the public nuisance is located.

(Code 1986, § 10.06; Ord. No. 0-4-2012, § 1, 3-27-2012; Ord. No. 0-27-2019, § 1, 1-14-2020)

Editor's note(s)—Ord. No. 0-27-2019, § 1, adopted Jan. 14, 2020, changed the title of § 50-6 from abatement of public nuisances to abatement—generally.

Sec. 58-7. Cost of abatement.

In addition to any forfeiture ~~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.

(Code 1986, § 10.07)

Sec. 58-8. Public nuisances affecting health.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of section 58-2:

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

(2) *Unburied carcasses.*

a. *Nonhuman consumption.* 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 24 hours after death.

b. *Human consumption.* Dead animal carcasses intended for human consumption shall be removed within 96 hours of hanging and, to the extent possible, the carcasses shall be hung in a manner to minimize public view.

(3) *Breeding places for vermin, etc.* 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.

(4) *Stagnant water.* All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) *Privy vaults and garbage cans.* Privy vaults and garbage cans which are not flytight.

(6) *Noxious weeds and wild growth*. All noxious weeds and other rank growth of vegetation.

a. *Required.* The owner of any land within the city shall destroy all noxious weeds and keep mowed all grasses, as defined in subsection (b) of this section, which grow on owner's property and on any terraces and ditches abutting such property.

b. *Defined.* The term "noxious weed" or "weeds" as used in this section are defined by Wis. Stats. §§ 23.235 and 66.0407, respectively, as amended, and also include those weeds set forth in § 58.11 and shall also include common ragweed (Ambrosia atemisiifolia), giant ragweed (Ambrosia trifida), burdock (Actrium spp.), and Japanese knotwood (Fallopia Japonica); all other plants defined as noxious by the Wisconsin Department of Natural Resources; and all other grasses over 12 inches in height.

c. *Managed natural landscape areas.* Planned natural and native landscape areas grown in a managed landscape plan will be allowed and shall not be subject to this section if the areas meet and are maintained as per the following criteria: All natural landscape areas shall comply with all Wisconsin law and may include native and naturalized plants including, but not necessarily limited to, ferns, wildflowers, grasses, shrubs and trees. These areas are to be kept free of all "noxious weed" or "weeds" as defined in this section at all times. Natural landscape areas shall be set back a minimum of ten feet from all property lines and driveways unless the property is abutted by a roadway, fence or similar barrier separating it from adjoining residential properties, then the natural landscaping may be planted up to the property line (inside the sidewalk).

d. *Enforcement.* Failure to correct a violation of this section may result in nuisance abatement as defined in section 58-6 and penalties as provided in sections 58-3 and 1-3.

e. *Authority to assess costs.* The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

f. *Abatement in accordance with state law.* Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under Wis. Stats. ch. 823, and to enforce any judgment entered in such action.

g. *Other action.* If the director of public work determines that a public nuisance exists within the city under this section, the director may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

(7) *Water pollution.* 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.

(8) *Noxious odors, etc.* 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 of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city.

(9) *Street pollution.* 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.

(10) *Storage of junk, etc.* Outdoor ~~The open~~ storage in violation of Section 10-318 ~~junk, refuse, litter, garbage and scrap or waste matter~~.

(11) Reserved.

(12) *Animal defecation.* All excreted animal feces which is not removed immediately and properly disposed of by burial or other suitable sanitary means by the person owning or having control of such animal.

(Code 1986, § 10.03; Ord. No. 0-20-10, § 1, 11-9-2010; Ord. No. 0-11-2013, 6-11-2013; Ord. No. 0-27-2019, § 2, 1-14-2020)

Sec. 58-9. Public nuisances offending morals and decency.

The following acts, omissions, places, conditions and things are 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 section 58-2:

(1) *Disorderly houses.* 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.

(2) *Unlicensed sale of liquor and beer.* 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 chapter 14.

(3) *Continuous violation of city ordinances.* Any place or premises within the city where city ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(Code 1986, § 10.04)

Sec. 58-10. Public nuisances affecting peace and safety.

The following acts, omissions, places, conditions and things are 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 definition of section 58-2:

(1) *Signs, billboards, etc.* 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.

(2) *Illegal buildings.* All buildings erected, repaired or altered in violation of the provisions of chapter 10 relating to materials and manner of construction of buildings and structures within the city.

(3) *Unauthorized traffic signs.* 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.

(4) *Obstruction of intersections.* 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.

(5) *Tree limbs.* All limbs of trees which project over a public sidewalk which are less than nine feet or which are less than 14 feet above the surface of the street.

(6) *Shrubs.* All shrubs or plantings adjacent to sidewalks which encroach the sidewalk.

(7) *Hazardous trees.* All trees which are a menace to the public safety or are the cause of substantial annoyance to the general public.

(8) *Dilapidated buildings.* All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(9) *Wires over streets.* All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof.

(10) *Obstructions of streets and excavations.* All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the streets, alleys, sidewalks or crosswalks, except as permitted by ordinance 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 or do not conform to the permit.

(11) *Unlawful assembly.* 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.

(12) *Flammable liquids.* Repeated or continuous violations of ordinance or law relating to the storage of flammable liquids.

(13) *Unsafe sidewalks.* The allowing of rainwater, ice or snow to fall from a building or structure upon a sidewalk without taking precautions to safeguard the public in using such sidewalks.

(14) *Barbed wire fences.* Barbed wire fences located within three feet of a public sidewalk.

(15) *Hedges, bushes and trees.* Any hedges, bushes, or trees that have become overgrown, decayed or out of ordinary maintenance. Hedges or bushes shall be cut or trimmed as often as necessary to maintain a neat and attractive appearance.

(Code 1986, § 10.05; Ord. No. 0-5-2012, § 1, 3-27-2012; Ord. No. 0-10-2016, § 1, 6-28-2016)

Sec. 58-11. Reserved.

Sec. 58-12. Diseased, infested or dangerous trees or shrubs a nuisance.

(a) *Public nuisances declared.* The continued existence of injured or diseased or infested trees or other plantings, and the failure to properly treat or control the same which is likely to cause the spread of disease or infestation or endanger persons because of the deteriorated condition, is hereby declared to be a public nuisance requiring abatement.

(b) *Abatement.*

(1) *Order.* Whenever the director of public works shall find on examination that any tree or shrub or part thereof growing or located upon private premises is a public nuisance as defined in this section, he or she shall notify the owner, or if the owner is unknown and there is a tenant or operator occupying said property then to such tenant or operator, in writing that the nuisance must be sprayed, removed, or otherwise abated as directed in the order within the time specified, which shall not be less than 14 days unless the director of public works shall determine that immediate action is necessary for public safety or health. The order shall be served personally on the owner, or if the owner is unknown and there is a tenant or operator occupying said property then to such tenant or operator, and, at the option of the director of public works may be mailed to the last known address of the person(s) to be served. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the property or by publishing as a Class 3 notice under Wis. Stats. ch. 985. The time limit specified in the order runs from the earlier of the date of posting, service or publication.

(2) *Abatement by city.* If the owner of such premises or occupant if different from owner refuses or neglects to comply with the notice to abate a nuisance under this section within the time specified, the director of public works shall cause the nuisance to be sprayed, removed or otherwise abated and shall report the expense thereof to the city treasurer, who shall enter it as a charge against the property upon which the tree or shrub is located.

(3) *Appeals.* Any person affected by an order under this section shall, prior to the abatement date, apply to the circuit court for an order restraining the city from entering on the premises and abating or removing the nuisance, or be forever barred.

(4) *Abatement in accordance with state law.* Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under Wis. Stats. ch. 823, and to enforce any judgment entered in such action.

(5) *Other action.* If the director of public works determines that a public nuisance exists within the city, the director may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

(c) *Dangerous trees.*

(1) *Definition.* "Dangerous tree" means any tree which, in the opinion of the director of public works, is so decayed or injured, or which for any other reason is likely to fall upon any sidewalk or street or other public property.

(2) *Notice to remove.* Whenever the director of public works shall have notice of a dangerous tree which is likely to fall, it shall give notice in writing to the owner of the land where such tree is located, requiring the owner to remove the tree within 14 days after receiving the notice. The notice may be served personally on the owner or agent thereof or by registered mail addressed to the owner or agent.

(3) *Appeals.* Any person affected by an order under this section shall, prior to the abatement date, apply to the circuit court for an order restraining the city from entering on the premises and abating or removing the nuisance, or be forever barred.

(4) *Abatement in accordance with state law.* Nothing in this article shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state. The city reserves all rights to commence an action for abatement of the public nuisance, damages and costs under Wis. Stats. ch. 823, and to enforce any judgment entered in such action.

(5) *Other action.* If the director of public works determines that a public nuisance exists within the city, the director may cause to be issued and served a citation for violation of this section upon the person causing, permitting or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

(6) *Authority to assess costs.* The cost of the abatement or removal of a nuisance under this section shall be collected from the owner, occupant or person causing, permitting or maintaining the nuisance and, if notice to abate the nuisance, if applicable, has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(Ord. No. 0-27-2019, § 3, 1-14-2020)

Sec. 58-13. Interference prohibited.

No person shall prevent, delay or interfere with the director of public works, or designee, or any of his/her agents or employees while they are engaged in the performance of duties imposed by this chapter. No person shall refuse to permit the director or employees of the department of public works to enter upon his premises at reasonable times to exercise the duties imposed by this section or permit any public nuisance to remain on any premises owned or controlled by him when ordered by the director of public works to abate such nuisance.

(Ord. No. 0-27-2019, § 4, 1-14-2020)

2. This ordinance shall be in full force and effect from and after its date of publication.

Dates

Council Adopted:_____

Mayor Approved: _____ _____

Tim Swadley, Mayor

Published:_____

Attest:_____ _____

Candee Christen, City Clerk

CITY OF STOUGHTON
DEPARTMENT OF
PLANNING & DEVELOPMENT
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RODNEY J. SCHEEL
DIRECTOR

Date: January 7, 2022

To: Public Safety Committee

From: Rodney J. Scheel
Director of Planning & Development

Subject: Outdoor Storage Ordinance Revisions

We have been working with the City Attorney to evaluate our outdoor storage ordinances and the tools for compliance. As proposed, Outdoor Storage violations will be classified as Public Nuisances. The Public Nuisance regulations offer abatement procedures not found in Chapter 10.

These ordinance revisions are proposed for your consideration.

If you have any questions, please contact me.

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