

ORDINANCE NO.: 4381

A SECOND AMENDED ORDINANCE to create Subsection 7.02(S) of the Code of Ordinances of the City of La Crosse to prohibit certain conduct associated with public intoxication, including a penalty in connection therewith.

WHEREAS, the City of La Crosse has home rule powers under the Wisconsin Constitution and Section 62.11(5) Wis. Stats., including the power to act for the government and good order of the City, for its commercial benefit and for the health, safety and welfare of the public, and may carry out these powers by regulation and other necessary and convenient means, and

WHEREAS, annually the City of La Crosse experiences individuals who are victims of criminal damage to property, sexual assault, domestic violence, battery, accidental drowning and/or homicide directly related to persons being in the state of intoxication, and

WHEREAS, in order to act for the health, safety and welfare of the public and the City, it is necessary to regulate certain conduct associated with individuals that are publicly intoxicated as that term is hereafter defined, and

WHEREAS, the goal of providing for the safety, welfare and health of the public requires the expenditure of City resources, including the law enforcement requirements associated with certain conduct related to public intoxication.

NOW, THEREFORE, THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Subsection 7.02(S) is hereby created and entitled to read as follows:

- (S) CERTAIN CONDUCT ASSOCIATED WITH PUBLIC INTOXICATION PROHIBITED.
 - (1) Declaration of Policy. It is the policy of the City of La Crosse to comply with Chapter 51, Wis. Stats., as well as provide for the safety, welfare and health of the public while prohibiting certain harmful conduct of intoxicated persons. Nothing within this ordinance is meant to contradict those elements proscribed under Chapter 51, Wis. Stats.
 - (2) Definitions
 - (a) Public Place: includes a building or place owned or controlled by the City, a school, a place of public worship, any public street, including public sidewalk, alley, walk, or other publicly owned lands. Public place excludes the premises of a licensed alcohol establishment.
 - (b) Public nuisance: conduct by an individual which includes engaging in obnoxious behavior, being disoriented, falling, vomiting, public urinating, acting lewdly, loudly and/or

combatively or being a danger to oneself or others.

- (c) Intoxicated person: a person who is presently impaired, mentally or emotionally, as a result of the presence of alcohol in the person's body. Also included is any person presently impaired, mentally or emotionally, as a result of a drug or controlled substance, as that term is defined by the Wisconsin Statutes, in the body or a combination of alcohol and such other drugs or controlled substances. Evidence of an intoxicated person shall include a combination of the following indicators:
 - (1) odor of intoxicants on the breath,
 - (2) bloodshot eyes,
 - (3) dilated pupils,
 - (4) stumbling or staggering,
 - (5) slurred speech
 - (6) failure of Standard Field Sobriety Test.
- (3) Intoxicated Person in Public Place Prohibited. No person in a public place shall conduct himself/herself so as to be:
 - (a) a danger to themselves or others and/or
 - (b) a public nuisance and
 - (c) intoxicated or incapacitated by alcohol or drug or controlled substance as defined above.
- (4) No person shall be cited under this section without first having been offered and failed the Standard Field Sobriety Test; however, a person incapable and/or having refused the Standard Field Sobriety Test may still be cited under the criteria set forth in (2). No individual actively seeking medical treatment for an alcohol or other drug-related overdose will be subject to discipline for the sole violation of using or possessing alcohol. This policy shall extend to another individual seeking help for an intoxicated individual.
- (5) Penalties.
 - (a) Persons found in violation of this ordinance for the first time shall be provided a written warning with conditions in lieu of a citation. The warning shall be conditioned on such person attending and successfully completing an evidence based alcohol education program sponsored by the police department. The failure to timely complete the alcohol education program shall result in the issuance of a citation and the prosecution of the same in the municipal court by the City. Successful and timely completion of the alcohol education program shall result in no further enforcement of the violation giving rise to the warning.
 - (b) The penalty for the first conviction of this ordinance shall be a forfeiture of not less than \$150.00 plus penalty, costs and assessments, including the cost of transporting the individual to an approved treatment

facility as provided for in Section 51.45(11), Wis. Stats. if the individual voluntarily agrees to be transported or is incapacitated so as to require transport. The second and any subsequent offense within a twelve (12) month period shall be not less than \$400.00 plus penalty, costs and assessments, along with the cost of transporting the individual to an approved treatment facility as provided for in Section 51.45(11), Wis. Stats.

SECTION II: This ordinance shall take effect and be in force from and after its passage and publication until March 31, 2008, prior to which time affirmative action of the Common Council will be needed for this ordinance to continue in force and effect. After a period of no more than twelve (12) months, the Police Department shall report back to the Common Council indicating the effectiveness and usefulness, as well as including any recommendations to the Common Council regarding this ordinance.

/s/

Mark Johnsrud, Mayor

/s/

Teri Lehrke, City Clerk

Passed: 3/8/07

Approved: 3/8/07

Published: 3/17/07