

CODIFIED ORDINANCES OF ERIE  
PART SEVEN - GENERAL OFFENSES CODE

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CODIFIED ORDINANCES OF ERIE  
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ARTICLE 701  
Administration and Law Enforcement

701.01	Compliance with police order.	701.03	Aiding and abetting.
701.02	False fire alarm.	701.99	Penalty.

CROSS REFERENCE  
Power to provide police protection - see 3rd Class §2403(22)  
(53 P. S. §37403(22))

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701.01 COMPLIANCE WITH POLICE ORDER.  
No person shall refuse or fail to comply with any lawful order of a police officer.  
(Ord. 7411 §4. Passed 3-13-31.)

701.02 FALSE FIRE ALARM.  
No person shall intentionally create any false fire alarm. (Ord. of July 12, 1866 §1.)

701.03 AIDING AND ABETTING.  
Whoever, in any manner, aids, abets, instigates or encourages any other person to violate any ordinance shall be subject to the same penalties as the principal.  
(Ord. of July 12, 1866 §27.)

701.99 PENALTY.  
Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 48-1966 §1. Passed 9-28-66.)

ARTICLE 703  
Advertising

703.01 Service stations.

703.99 Penalty.

CROSS REFERENCE  
Posting advertisements - see GEN. OFF. Art. 713

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703.01 SERVICE STATIONS.

No person engaged in the business of retailing gasoline shall post or place signs upon the premises used and occupied by such retailer which do not conform to the following conditions:

- (a) The lettering and numerals upon such signs setting forth the basic price, tax and total retail price per gallon shall be uniform in size, color and visibility.
- (b) Such signs shall not be placed or maintained within street lines.  
(Ord. 8306 §1. Passed 10-17-47.)

703 99 PENALTY.

Whoever violates any provision of this article, and whoever aids, abets or assists therein, shall, upon conviction thereof, be fined not more than two hundred and fifty dollars (\$250.00) for each offense or violation and, in default of payment of such fine, be imprisoned not more than thirty days. (Ord. 8306 §2. Passed 10-17-47.)



ARTICLE 705  
Disorderly Conduct

705.01	Disorderly conduct defined.	705.03	Arrest.
705.02	Acts constituting disorderly conduct.	705.99	Penalty.

CROSS REFERENCES

Power to prevent riots - see 3rd Class §2403(25)  
(53 P. S. §37403 (25))  
Disorderly conduct - see 3rd Class §2403(55)  
(53 P. S. §37403(55))

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705.01 DISORDERLY CONDUCT DEFINED.

It shall constitute the offense of disorderly conduct for any person to disturb the good order and quiet of the City by clamor or noise, by intoxication and drunkenness, or by fighting and using obscene, profane or indecent language on the sidewalks, streets or in any public place or building in the City, to the annoyance of any of its residents, or to endanger or violate the public peace in any other manner by indecent or disorderly conduct, whether such conduct directly disturbs the tranquility of the City or consists in abusing, insulting, beating, striking, threatening to fight, provoking to quarrel or any other unlawful act against the person or property of any individual, detrimental to the public peace, or lewd, lascivious behavior tending to subvert good order. (Ord. 34-1966 §1. Passed 8-3-66.)

705.02 ACTS CONSTITUTING DISORDERLY CONDUCT.

The following acts, committed by any person with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned, shall, among other acts above generally referred to, be guilty of the offense of disorderly conduct:

- (a) Uses offensive, disorderly, threatening, abusive or insulting language, conduct or behavior.
- (b) Acts in such a manner as to annoy, disturb, interfere with, obstruct or be offensive to others.
- (c) Congregates with others on any street, alley or other public way or public place and refuses to move on when ordered by the police.
- (d) Loiters or strolls in, about or upon any street, alley or other public way or public place and refuses to move on when ordered by the police.
- (e) By his actions causes a crowd to collect, except when lawfully addressing such crowd.
- (f) Shouts or makes a noise either outside or inside a building during the nighttime to the annoyance or disturbance of any number of persons.
- (g) Interferes with any person in any place by jostling against such person or unnecessarily crowding him or by placing a hand in the proximity of such person's pocket, pocketbook or handbag.



- (h) Stations himself on the public streets or follows pedestrians for the purpose of soliciting alms, or who solicits alms on the public streets unlawfully.
- (i) Causes a disturbance in any streetcar, bus, railroad car, omnibus or other public conveyance by running through it, climbing through windows or upon the seats, or otherwise annoying passengers or employees therein.
- (j) Stands on sidewalks or street corners and makes insulting remarks to or about passing pedestrians or annoys pedestrians.
- (k) Looks, peers or peeps into, or be found loitering around or within view of any window not his own property with the intent of watching or looking through such window.
- (l) Disturbs, tends to disturb or aids in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct.
- (m) Wanders about the streets, alleys or other public ways or places, or who is found abroad at late or unusual hours in the night without any visible or lawful business and not giving a satisfactory account of himself.  
(Ord. 34-1966 §1. Passed 8-3-66.)
- (n) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, automobile radio, automobile stereo or high fidelity equipment or similar device which produces, reproduces or amplifies sound:
  - (1) At any time of the day in such a manner from any source as to create a noise disturbance across a real property boundary; or
  - (2) In such a manner as to create a noise disturbance across any real property boundary when operated in or on a motor vehicle on a public right-of-way or public space; or
  - (3) In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier; or
  - (4) At such a sound intensity that the sound is audible from a distance of fifty feet in any public area, street or sidewalk of the City; when the sound source is in any public area, street or sidewalk of the City.  
(Ord. 20-1994 § 1. Passed 3-16-94.)

#### 705.03 ARREST.

Policemen shall and may, within the City or upon property owned or controlled by the City or by a municipality authority of the City within the Commonwealth, either with or without warrant, but upon view, arrest and commit for hearing any and all persons guilty of disorderly conduct. (Ord. 34-1966 §2. Passed 8-3-66.)

#### 705.99 PENALTY.

After hearing before a district magistrate, and conviction for the offense of disorderly conduct, the defendant shall be fined not more than one thousand dollars (\$1,000), recoverable with costs, together with judgment of imprisonment of not more than ninety days if the penalty and costs are not paid. (Ord. 20-1994 §2. Passed 3-16-94.)



ARTICLE 706  
Disorderly House Visitors

706.01 Presence or participation in disorderly house prohibited. 706.99 Penalty.

CROSS REFERENCE  
Disorderly conduct - see GEN, OFF. Art. 705

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706.01 PRESENCE OR PARTICIPATION IN DISORDERLY HOUSE  
PROHIBITED.

No individual shall be knowingly present and/or participating in an ill governed or disorderly house or place wherein gambling or drinking is occurring when the same constitutes a common nuisance or disturbance to the neighborhood or orderly citizens.  
(Ord. 5-1968 §1. Passed 2-7-68.)

706.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both.  
(Ord. 5-1968 §2. Passed 2-7-68.)

ARTICLE 709  
Health and Sanitation

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| 709.01 Sale of products exposed to floods. | 709.99 Penalty. |
| 709.02 Physical endurance contests.        |                 |

CROSS REFERENCES

Bureau of Health - see ADM. 117.03(d); HLTH . Art. 1103  
Boat health and sanitation - see S.U. & P.S. Art. 975

709.01 SALE OF PRODUCTS EXPOSED TO FLOODS.

(a) No person shall sell, attempt to sell, or place upon exhibition for sale, any goods, wares or merchandise, including wearing apparel, edibles and food products, taken or imported from any contaminated flood area in the City or elsewhere.

(b) City health authorities shall have the full power to investigate and enter any premises to determine the nature, kind and character of all such articles placed upon exhibition for sale or offered for sale in any building, tenement, house, room, boat or other place in the City.

(c) The City health officers shall have the right to confiscate and destroy any such articles found by them in violation of this section. (Ord. 7858 §1-3. Passed 4-7-36.)

709.02 PHYSICAL ENDURANCE CONTESTS.

No person shall promote, manage, conduct or participate in any physical endurance contest, dance or other act which lasts forty-eight hours or more, with allowance for rest periods, in any public hall or building in the City.

No owner or lessee of any building, dance hall or auditorium shall permit such a physical endurance in any public building, hall or auditorium.  
(Ord. 7639 §1, 2. Passed 3-7-33.)

709.99 PENALTY.

(a) Whoever violates any provision of Section 709.01 shall, upon each violation and conviction thereof, be fined not less than ten dollars (\$10.00) or more than three hundred dollars (\$300.00), recoverable before the Mayor or any alderman of the City. Upon default of payment of penalty and costs, such person may be imprisoned not more than thirty days. Each and every day upon which such violation occurs shall constitute a separate violation.  
(Ord. 7858 §4. Passed 4-7-36.)

(b) Whoever violates any provision of Section 709.02, shall, upon each violation and conviction thereof, be fined not more than three hundred dollars (\$300.00) recoverable

before the Mayor or any alderman of the City. Upon default of payment of the penalty and costs, such person may be imprisoned not more than thirty days. Each and every day upon which such person continues to violate the provisions of Section 709.02 shall constitute a separate violation. (Ord. 7639 §3. Passed 3-7-33.)



ARTICLE 711  
Public Indecency

711.01	Committing public indecency; exception.	711.04	Construction and severability.
711.02	Definitions.	711.99	Penalty.
711.03	Abatement of nuisances authorized.		

CROSS REFERENCES

Power to prohibit prostitution - see 3rd Class §2403(24) (53 P.S. §37403(24))

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711.01 COMMITTING PUBLIC INDECENCY; EXCEPTION.

(a) A person who knowingly or intentionally does any of the following in a public place commits public indecency, a summary offense:

- (1) Engages in sexual intercourse;
- (2) Engages in deviate sexual intercourse as defined by the Pennsylvania Crimes Code;
- (3) Appears in a state of nudity; or
- (4) Fondles the genitals of himself, herself or another person.

(b) The prohibition set forth in subsection (a)(3) hereof shall not apply to:

- (1) Any child under ten years of age; or
- (2) Any individual exposing a breast in the process of breastfeeding an infant under two years of age.

(Ord. 75-1994 §1. Passed 9-28-94.)

711.02 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Nudity" means the showing of the human male or female genital, pubic area or buttocks with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any part of the nipple; the exposure of any device, costume, or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region or pubic hair region; or the exposure of any device worn as a cover over the nipples and/or areola of the female breast, which devices simulates and gives the realistic appearance of nipples and/or areola.

- (b) “Public place” includes all outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including such places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.  
(Ord. 75-1994 §1. Passed 9-28-94.)

#### 711.03 ABATEMENT OF NUISANCES AUTHORIZED.

In addition to the specific penalties provided in this article, it is hereby declared that any building, portion of a building, or enclosed place regularly used for the prohibited display of public nudity is a public nuisance, subjecting the owner, proprietor or other operator thereof to any and all actions authorized by the Commonwealth of Pennsylvania for the abatement of public nuisances, including, but not limited to the procedures set forth in Article 712.  
(Ord. 75-1994 §1. Passed 9-28-94.)

#### 711.04 CONSTRUCTION AND SEVERABILITY.

It is the intention of the City that the provisions of this article be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights consistent with the purposes of this article. Should a court of competent jurisdiction determine that any part of this article, or any application or enforcement of it is excessively restrictive of such rights or liberties, then such portion of the article, or specific application of the article, shall be severed from the remainder, which shall continue in full force and effect.  
(Ord. 75-1994 §1. Passed 9-28-94.)

#### 711.99 PENALTY.

Whoever violates any provision of this article, either by commission of a public indecency, or by the promotion or maintenance of public indecency as property owner, proprietor or manager of a business, shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000) or shall be imprisoned for not more than ninety days, or both. Each day such violation continues is a separate offense.  
(Ord. 75-1994 §1. Passed 9-28-94.)

ARTICLE 712  
Lewd Theaters, Massage Parlors and Model Studios

712.01 Purpose.	712.07 Action by Council.
712.02 Definitions.	712.08 Forfeiture to General Fund; cost of abatement; collection.
712.03 Lewd films and lewd live theater productions.	712.09 Action by City Solicitor.
712.04 Lewd publications.	712.10 Severability.
712.05 Massage parlors or model studios.	
712.06 Knowledge of nuisance.	

CROSS REFERENCES  
Building usage as nuisance - see 68 P. S. §467 et seq.

712.01 PURPOSE.

Council has found that the crass commercial exploitation of explicit sexual conduct through the public exhibition of lewd films, the display and/or sale of lewd publications, and the use of so-called massage parlors and model studios for purposes of lewdness, assignation or prostitution constitutes a debasement and distortion of a sensitive key relationship of human existence central to family life, community welfare and the development of the human personality; is indecent and offensive to the senses and to public morals; and interferes with the comfortable enjoyment of life and property, in that such interferes with the interest of the public in the quality of life and total community environment, the tone of commerce in the City, property values and the public safety. The continued operation of such activities is detrimental to the best health, safety, convenience, good morals and general welfare of the City and of the residents, citizens, inhabitants and businesses thereof. Council hereby declares such activities to be a public nuisance, and herein establishes procedures for the abatement thereof. This article shall apply to existing establishments which are presently engaged in the type of activity herein declared to be a public nuisance. (Ord. 59-1977 §1. Passed 8-24-77.)

## 712.02 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Knowledge" or "knowledge of such nuisance" means having knowledge of the contents and character of the patently offensive sexual conduct or demonstration which appears in the film or publication, or knowledge of the acts of lewdness, assignation or prostitution which occur on the premises.
  - (b) "Lewd" matter means any matter which:
    - (1) The average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
    - (2) Depicts or describes patently offensive representations or descriptions of:
      - A. Ultimate sexual acts, normal or perverted, actual or simulated;
      - or
      - B. Masturbation, excretory functions, or exhibition of the genitals or genital area.
- Nothing herein contained is intended to include or proscribe any matter which, when considered as a whole, and in the context in which it is used, possesses serious literary, artistic, political or scientific value.
- (c) "Massage" means any method of treating the superficial soft parts of the human body, for remedial, hygienic or other purposes, consisting of rubbing, stroking, kneading or any similar treatment, accomplished by hand or by the use of any instrument.
  - (d) "Massage parlor" means any building, structure or portion thereof, located within the City, which is open to members of the general public, with or without the payment of a fee, at which massage services are offered.
  - (e) "Matter" means a motion picture film or a publication, or both.
  - (f) "Model studio" means:
    - (1) Any premises on which there is conducted the business of furnishing figure models who pose in the nude for the purpose of being observed or viewed by any person or of being sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted for persons who pay a fee, or other consideration, compensation, or gratuity, for the right or opportunity so to depict the figure model, or for admission to, or for permission to remain upon, or as a condition for remaining upon the premises; or
    - (2) Any premises where there is conducted the business of furnishing, providing or procuring, for a fee or other consideration, compensation or gratuity, figure models who pose in the nude to be observed or viewed by any person or to be sketched, painted, drawn, sculptured, photographed or otherwise similarly depicted.
    - (3) The term "model-studio" does not include:
      - A. Any studio which is operated by any state college, junior college, public school or any governmental agency wherein the person, firm, association, partnership or corporation operating it has met the requirements established by the Commonwealth of Pennsylvania for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma or honorary diploma;
      - B. Any premises where there is conducted the business of furnishing, providing or procuring figure models solely for any studio described in subsection (f)(3)A. hereof; or

- C. Any studio operated by a tax exempt, nonprofit corporation devoted to the development of art and its appreciation.
- (g) "Motion picture film" includes any:
- (1) Film or plate negative;
  - (2) Film or plate positive;
  - (3) Film designed to be projected on a screen for exhibition;
  - (4) Films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen; and
  - (5) Video tape or any other medium used to electronically reproduce images on a screen.
- (h) "Nude" includes:
- (1) Completely without clothing; or
  - (2) With the human male or female genitals, pubic area or buttocks with less than a full opaque covering or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple, or the covered male genitals in a discernibly turgid state.
- (i) "Person" means any individual, partnership, firm, association, corporation or other legal entity.
- (j) "Place" includes, but is not limited to, any building, structure or space, or any separate part or portion thereof, whether permanent or not, or the ground itself.
- (k) "Publication" includes any book, magazine, article, pamphlet, writing, printing, illustration, picture, sound recording or motion picture film which is displayed in an area open to the public offered for sale or exhibited in a coin-operated machine.
- (l) "Sale" means a passing of title or right of possession from a seller to a buyer for valuable consideration, and shall include, but is not limited to, any lease or rental arrangement or other transaction wherein or whereby any valuable consideration is received for the use of, or transfer or possession of, lewd matter. (Ord. 59-1977 §2. Passed 8-24-77.)
- (m) "Live theater productions" means any dramatic, musical or comedic production performed in the actual presence of a live audience. (Ord. 73-1977 §1. Passed 9-28-77.)

#### 712.03 LEWD FILMS AND LEWD LIVE THEATER PRODUCTIONS.

(a) Any and every place in the City where lewd films are publicly exhibited or possessed for the purpose of such exhibition; any and every place in the City where a lewd film is publicly or repeatedly exhibited, or possessed for the purpose of such exhibitions; and any and every place in the City where lewd live theater productions are performed is a public nuisance.

(b) Any and every lewd film which is publicly exhibited or possessed for such purpose and any and every lewd live theater production at a place which is a public nuisance under subsection (a) hereof, is a public nuisance per se.

(c) From and after service on the theater, its manager, acting manager or person then in charge of such place, of a true and correct copy of this article and a true and correct copy of the Resolution and order of summary abatement provided for in Section 712.07 hereof, all moneys paid thereafter as admission price to such exhibitions are

also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance.

(Ord. 59-1977 §3. Passed 8-24-77; Ord. 73-1977 §1. Passed 9-28-77.)

712.04 LEWD PUBLICATIONS.

(a) Any and every place in the City in which lewd publications constitute a part of the stock in trade is a public nuisance.

(b) Any and every lewd publication possessed at a place which is a public nuisance under subsection (a) hereof, is a public nuisance per se.

(c) From and after service on the place, its manager, acting manager or person then in charge of such place, of a true and correct copy of this article and a true and correct copy of the Resolution and order of summary abatement provided for in Section 712.07 hereof, all valuable consideration received for the sale of such lewd publications is also declared to be a public nuisance as personal property used in conducting and maintaining a declared public nuisance. (Ord. 59-1977 § 4. Passed 8-24-77.)

712.05 MESSAGE PARLORS OR MODEL STUDIOS.

(a) Every message parlor or model studio, which, as a regular course of business, is used for the purposes of lewdness, assignation or prostitution, and every such message parlor or model studio in or upon which acts of lewdness, assignations or prostitution, are held or occur, is a public nuisance which shall be enjoined, abated and prevented.

(b) From and after service on the place, its manager, acting manager or person then in charge of such place, of a true and correct copy of this article and a true and correct copy of the Resolution and order of summary abatement provided for in Section 712.07 hereof, all moneys or other valuable consideration paid for services rendered to customers are also declared to be a public nuisance, as personal property used in conducting and maintaining a declared public nuisance. (Ord. 59-1977 §5. Passed 8-24-77.)

712.06 KNOWLEDGE OF NUISANCE.

(a) Upon and after receiving notice through service of a true and correct copy of this article and of a true and correct copy of the Resolution and order of summary abatement provided for in Section 712.07 hereof, any and every person who shall legally or equitably, own, lease, maintain, manage, conduct or operate a place in the City which is declared to be a public nuisance as set forth and stated in Sections 712.03, 712.04 or 712.05 is deemed to be a person who has knowledge of such nuisance for the purpose of this article, and is, thereafter, responsible for its maintenance, and shall be liable therefor.

(b) The place and subject matter declared to be public nuisance under Sections 712.03, 712.04 or 712.05, shall be abated as provided for herein. (Ord. 59-1977 §6. Passed 8-24-77.)

712.07

## 712.07 ACTION BY COUNCIL.

Upon a specific finding that a public nuisance, as defined in Sections 712.03, 712.04 or 712.05, exists in the City, Council, in applying the provisions of this article to such nuisance, shall provide for the following by Resolution:

- (a) Declare the fact that such nuisance exists;
- (b) Set forth the description or legal description and street address of the place which constitutes the nuisance;
- (c) Set forth the evidentiary facts considered by Council arriving at its factual determination;
  - (1) In the case of a motion picture film or films, or live theater production, such shall include a recitation of the particular sexual conduct and acts which Council finds are patently offensive, and the basis for the finding by Council that:
    - A. Such films or productions are publicly exhibited in the course of business; or
    - B. Such film or production is publicly or repeatedly exhibited, or held for such exhibition at the place declared to be a nuisance.
  - (2) In the case of a publication or publications, such shall include a recitation of:
    - A. The particular publications or types of publications considered by Council, and those which Council finds to be patently offensive;
    - B. The basis for the finding by Council that such publications are displayed, sold or held for sale at any place found by Council to be a public nuisance; and
    - C. The basis of the finding by Council that such publications constitute a part of the stock in trade of such place of business or other place.
  - (3) In the case of a massage parlor or model studio, such shall include a recitation of:
    - A. The particular acts of lewdness, assignation or prostitution which have occurred; and
    - B. The basis for the finding by Council that such acts occur in the course of business.
- (d) Order all persons described in Section 712.06(a) to summarily abate such public nuisance within twenty-four hours of service of such order on any such persons, by terminating the exhibition, sale or possession for sale of such lewd subject matter or by ceasing to use the place where the nuisance is declared to exist or by terminating the use of such premises for the purposes of lewdness, assignation or prostitution, or causing the same to be terminated, and notifying the Mayor and Council of compliance therewith by sworn affidavit as ordered by the action of Council in such resolution;
- (e) Order the City Solicitor to proceed as directed in Section 712.09, and do all things necessary to abate such public nuisance through judicial proceedings and to conclude such proceedings as expeditiously as is permissible under the law, including requesting the Court to advance such proceedings on the calendar of the Court;

- (f) Inform and give notice to persons designated in Section 712.06(a) that:
- (1) Council has determined that a public nuisance presently exists at such place and address, and that, under Section 712.06(a), they are deemed to have knowledge thereof and are responsible therefor;
  - (2) In the event the order of the City is not complied with within twenty-four hours, Council has ordered the City Solicitor, as provided for under Section 712.09 to commence necessary legal proceedings naming such persons as defendants in a civil action to abate the same judicially under Section 712.07, and that under Sections 712.08(a) and (b), the costs of abatement of such civil abatement action filed including investigative costs, court costs, attorney's fees and other expenses, are made a special assessment against the parcel of land upon which such nuisance is being maintained and, upon their determination in such court action, shall, by separate legal procedure, be made a lien against such property and a personal obligation against any person, persons, firm, association, partnership, corporation or other entity deemed to be in violation of this article;
  - (3) All lewd motion picture films, lewd publications or lewd live theater productions being used in conducting and maintaining such public nuisance are contraband and the subject of forfeiture; and
  - (4) From and after service on the place, its manager, acting manager or person then in charge of such a place, of a true and correct copy of this article and a true and correct copy of such Resolution, any and all moneys paid as admission price to or for the exhibition or exhibitions of such lewd motion picture films or lewd live theater productions, and valuable consideration received for the sale of such lewd publications, and all moneys or other valuable consideration received for services rendered in such massage parlors or model studios are a public nuisance, as personal property used in conducting and maintaining such nuisance, and as such, are the subject of forfeiture.
- (g) Order that a true and correct copy of such Resolution and a true and correct copy of this article be delivered forthwith in any manner normally used to effectuate personal service of process to all persons of record having any legal or equitable interest in the real property, and to the regular or acting manager or persons in charge of the place therein declared a public nuisance.  
(Ord. 59-1977 §7. Passed 8-24-77; Ord. 73-1977 §1. Passed 9-28-77.)

712.08 FORFEITURE TO GENERAL FUND; COST OF ABATEMENT;  
COLLECTION.

- (a) Upon judgment for the City in legal proceedings brought pursuant to this article, an accounting shall be made by such defendant or defendants of all moneys or valuable consideration received by them which have been declared to be a public nuisance under Sections 712.03(c), 712.04(c) or 712.05(b). Such moneys or their equivalent and any valuable consideration received shall be forfeited to the General Fund or to the City as property of the City if any valuable consideration received be not money.

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712.09

- (b) The cost of abatement shall include the following:
- (1) Investigative costs;
  - (2) Court costs;
  - (3) Reasonable attorney's fees arising out of the preparation for, and trial of the case, and appeals therefrom, and other costs allowed on appeal; and
  - (4) Printing costs of trial and appellate briefs, and all other papers filed in such proceeding.

(c) Such cost of abatement is hereby made a special assessment against the parcel of land upon which such nuisance is maintained. Upon its determination in a civil action such shall, by separate legal proceeding, be made a lien against such property and a personal obligation against any person, persons, firm, association, partnership, corporation or other entity and shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided for ordinary municipal taxes. All laws, applicable to the levy, collection and enforcement of municipal taxes, shall be applicable to such special assessment. (Ord. 59-1977 §8. Passed 8-24-77.)

#### 712.09 ACTION BY CITY SOLICITOR.

Upon a specific finding by resolution of Council of the fact that a public nuisance exists at a particular location, the City Solicitor shall, not later than five days after the passage of such resolution, commence legal proceedings by the filing of a civil action seeking the following relief:

- (a) A Declaratory Judgment that the matter named by Council is lewd, as defined herein.
- (b) A Declaratory Judgment that the matter found to be lewd is or are public nuisances per se under this article and such resolution.
- (c) A Declaratory Judgment that each place named by Council is a public nuisance under this article and such resolution.
- (d) An accounting of all moneys paid as admission price to or for the exhibition or exhibitions of such lewd motion picture films or lewd live theater productions, and valuable consideration received for the sale of such lewd publications, and all moneys or other valuable consideration received for services rendered in such massage parlors or model studios from and after the time the persons maintaining such nuisance receive notice of the finding by Council by resolution that the public nuisance exists, and a judgment that such moneys or valuable consideration are a public nuisance under this article.
- (e) An order that all admission price moneys or valuable consideration received and enumerated in the Court-ordered accounting be forfeited as contraband to the General Fund or as property belonging to the City.
- (f) An injunction enjoining and restraining all persons responsible for maintaining such nuisance from possessing or publicly exhibiting such lewd motion picture films or lewd live theater productions, or from selling or possessing for sale such lewd publications, or from committing acts of lewdness, assignation or prostitution, at any time in the future in the City, and such other injunctive relief as the Court may order.

- (g) An order that all positive prints of the named lewd film and all lewd publications or copies or reproductions thereof be forfeited as contraband under this article.
- (h) Judgment for the City for all costs therein expended, including investigative costs, courts costs, reasonable attorney's fees and such other expenses as are provided for herein.
- (i) All other relief as the Court may deem proper.  
(Ord. 59-1977 §9. Passed 8-24-77; Ord. 73-1977 §1. Passed 9-28-77.)

#### 712.10 SEVERABILITY.

If any court shall determine that any word, clause, phrase, sentence, paragraph or subsection of this article is unconstitutional as worded, the Court shall first attempt to construe or interpret such unconstitutional provision so as to enable the same to be constitutional as so narrowed or construed. If the Court cannot so limit or construe such word or provision narrowly so as to render the same constitutional, it shall strike or modify only the minimum number of words, phrases, clauses, sentences or paragraphs as will be absolutely necessary to render the remainder constitutional. In no case shall a clause or phrase or word or other portion hereof render any other word, clause, phrase, sentence, paragraph or section unconstitutional, but instead shall be severed therefrom entirely, with the balance of this article in its entirety remaining in full force and effect. (Ord. 59-1977 §10. Passed 8-24-77.)

ARTICLE 713  
Litter, Handbills and Posters

713.01	Prohibited places for posting advertisements.	713.03	Littering with advertisements.
713.02	Posting advertisements declared nuisance.	713.04	Posting political campaign signs.
		713.99	Penalty.

CROSS REFERENCES

Advertising on wire-supporting poles - see S.U. & P.S.  
925.20, 925.21

Deposit of garbage or rubbish - see S.U. & P.S. 951.06,  
975.01

713.01 PROHIBITED PLACES FOR POSTING ADVERTISEMENTS.

No person shall post, stick, stamp, paint or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device, calculated to attract the attention of the public, to or upon any sidewalk, crosswalk, curb or curbstone, flagstone or any other portion or part of any public way or public place, or any lamppost, electric light, telegraph or telephone pole, railway structure, hydrant, shade tree or tree box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States or the State, and the ordinances, rules and regulations of the City. (Ord. 33-1966 §1. Passed 8-3-66.)

713.02 POSTING ADVERTISEMENTS DECLARED NUISANCE.

The posting, sticking, stamping, painting or otherwise affixing, or causing the same to be done, of any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public to or upon any sidewalk, crosswalk, curb or curbstone, flagstone or other portion or part of any public way or public place, or on any lamppost, electric light, telegraph or telephone pole, railway structure, hydrant, shade tree or tree box, or upon the piers, columns, trusses, girders, railings, gates or other parts of any public bridge or viaduct or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States or the State, and the ordinances, rules and regulations of the City, are declared to be a nuisance. (Ord. 33-1966 §2. Passed 8-3-66.)

## 713.03 LITTERING WITH ADVERTISEMENTS.

(a) No corporation, partnership, firm, association or other entity, its agents, servants, employees or representatives, or person shall cast or place in the streets of the City, or upon pavements, sidewalks or footways thereof, or into vestibules, yards or upon the porches of any dwelling or other outbuilding within the City, any papers, advertisements, handbills, circulars, wastepapers or sample of any description without lawful authority or consent, express or implied from the owner. No corporation, partnership, firm, association or other entity, its agents, servants, employees or representatives, or person, other than the owner, shall affix or attach to the doors, walls, windows, columns, trusses, railings, gates, fences, lamp posts, decorative fixtures of any kind or any other part of any dwelling or any outbuilding within the City, any papers, advertisements, handbills, circulars, wastepapers or samples of any description, without lawful authority or consent, express or implied from the owner. Nothing herein contained shall be held to apply to newspapers, mailed matter or addressed envelopes, or signs indicating the availability of property for sale or rent.

(b) Every corporation, partnership, firm, association or other entity, its agents, servants, employees or representatives, or any individual engaging in the business or practice of distributing advertisement door to door in the City shall include in their deliveries a notice advising the recipients of such advertisements that they may request that such deliveries be canceled. Such notice shall contain the name and address of the entity or individual making the distribution and the telephone number where the request for cancellation can be made. No corporation, partnership, firm, association or other entity, its agents, servants, employees or representatives, and no individual shall make further deliveries of advertisements to the property of any resident of the City once that resident has requested that delivery be stopped.

(c) No corporation, partnership, firm, association or other entity, its agents, servants, employees or representatives, nor any person, shall enter into or onto any building or improved real estate for the purpose of depositing any material, substance, refuse or other article or thing whatsoever without lawful authority or consent, express or implied from the owner.

(d) All persons making deliveries to residents of the City, whether employed by a private firm, government agency or government supported corporation, including letter carriers, shall use sidewalks or accepted and approved walkways when making deliveries and shall refrain from traversing lawns or other private property not normally used as a walkway by the general public. (Ord. 57-1977 §1. Passed 8-10-77.)

## 713.04 POSTING POLITICAL CAMPAIGN SIGNS.

(a) Definitions. Unless it appears from the context that a different meaning is intended, the following words shall have the meanings given them in this section:

- (1) "City" means the City of Erie, Pennsylvania.
- (2) "Director of Public Works" means the Director of Public Works of the City of Erie, Pennsylvania.

- (3) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (4) "Political campaign sign" means any bill, poster, placard, handbill, flyer, painting, sign or other similar object in any form whatsoever which contains written or printed matter in words, symbols or pictures or any combination thereof.

(b) Posting on Public Right-of-Way Prohibited. It is unlawful for any person to post a political campaign sign on or over any public property in the City.

(c) Posting Time Limits. It is unlawful for any person to post a political campaign sign more than ninety days prior to an election for which the sign is posted and to fail to remove a political campaign sign within thirty days after the election for which the sign was posted.

(d) Removal of Illegal Signs. The Director of Public Works, or his authorized agents, shall remove any political campaign sign found posted within the City limits that is in violation of this section.

(e) Authority of Public Works Director. For the purpose of removing political campaign signs, the Director of Public Works, or his authorized agents, are empowered to enter upon the property where the signs are posted, and the Director is further empowered to enlist the aid or assistance of any other department of the City and to secure legal process to the end that all such signs shall be expeditiously removed from any property where posted in violation of this section.

(f) Removal Procedure. When the Director or his agents shall find that a political campaign sign has been posted in violation of this section, he shall attempt to contact the candidate, committee or person responsible for posting such sign. If successful, he shall give twenty-four hours advance telephonic notice of his intention to remove the sign, indicating the nature of the violation and the location of the sign. If, after such notification, the illegal sign remains in violation, the Director or his agents shall remove such sign and store it in a safe location. If, after reasonable diligence, the Director is unable to contact the candidate, committee or person responsible for the sign, he may dispense with the notice requirement and remove the sign, storing it in a safe place.

(g) Storage, Notice and Return. If the Director or his agents remove any political campaign sign, he shall keep a record of the location from which the sign was removed. He shall store the sign in a safe place for at least ninety days, and shall immediately notify by telephone the candidate, committee or person responsible for the posting of the sign, indicating the fact of removal and the location where it may be retrieved. If the Director is unable to make telephone contact, he shall provide written notice, if the address of the candidate, committee or person is known or can be ascertained. The Director shall return any political campaign sign upon the payment of five dollars (\$5.00) for each sign, to cover the costs of removal, notice and storage.

(h) Sign Removal Charge. The City shall be entitled to receive the sum of five dollars (\$5.00) for every political campaign sign removed by the Director to cover the expenses of removal, notice and storage. In cases where unusual effort is needed to remove a sign, such as the cutting or removal of supporting structures, use of aerial devices, towing of trailer signs, or other unusual situation, the City shall collect from the person responsible a sum sufficient to cover the costs and hourly wages of the employees so utilized.

(i) Persons Responsible. In a campaign for political office, the candidate for such office shall be deemed responsible for the posting of his political signs, unless he first notifies the City Clerk and the Director that another person is responsible. In such case, the candidate shall provide the name, address, telephone number and signed consent of such other responsible person. In a campaign regarding a ballot measure, the president of the committee supporting or opposing such ballot measure shall be deemed responsible, unless he first notifies the City Clerk and Director of some other person responsible in the manner herein described. The candidate, or in the case of a ballot measure, the committee president, or other responsible person if so designated, shall be liable to pay any fees or costs for the removal and storage of such illegal signs, as set forth herein. Further, such candidate, committee president or other responsible person shall be subject to criminal prosecution for violation of this section.

(j) Illegal Signs a Public Nuisance. Political campaign signs posted in violation of this section are hereby declared to be a public nuisance and may be abated by the City. The collection of removal fees shall not preclude the City from criminally prosecuting any person in violation of this section.

(Ord. 60-1977 §1. Passed 8-24-77; Ord. 25-1978 §1. Passed 6-28-78.)

713.99 PENALTY.

(a) Whoever violates any provision of this article where another penalty is not otherwise provided is guilty of a summary offense and shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both.

(b) Whoever violates any provision of Section 713.04 is guilty of a summary offense and shall be fined fifty dollars (\$50.00).

(Ord. 33-1966 §4. Passed 8-3-66; Ord. 25-1978 §1. Passed 6-28-78.)

ARTICLE 715  
Offenses Relating to Property

715.01 Malicious destruction of property.                      715.99 Penalty.  
715.02 Trees and shrubs.

CROSS REFERENCES

Shade trees - see ADM. Art. 165  
Defacing walls or fences - see GEN. OFF. 711.04

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715.01 MALICIOUS DESTRUCTION OF PROPERTY.

(a) No person shall voluntarily and maliciously break, remove, destroy or deface any sign or any part of any dwelling, store, plant, factory, bridge, fence or other building or enclosure not his own. (Ord. of July 12, 1866 §1.)

(b) No person shall cut, break or in any manner injure or deface any seats or benches or parts thereof located on any of the public grounds of the City, or any of the fences surrounding such grounds. (Ord. of September 6, 1870 §6.)

(c) No person shall in any manner injure or deface any fountains, fixtures, statues or embankments on public grounds, nor shall any person disturb the proper operation of public fountains. (Ord. of June 7, 1869 §1.)

715.02 TREES AND SHRUBS .

No person shall in any way mutilate or destroy any fruit, shade or ornamental tree, shrub or flower on public property. (Ord. of June 7, 1869 §1.)

715.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 48-1966 §1. Passed 9-28-66.)

ARTICLE 717  
Snow and Ice Removal

- |   |                 |
|---|-----------------|
| 717.01 Snow and ice to be removed from sidewalks. | 717.99 Penalty. |
| 717.02 Depositing snow on roadway prohibited.     |                 |
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717.01 SNOW AND ICE TO BE REMOVED FROM SIDEWALKS.

It shall be the duty of the occupant of any dwelling, tenement, store, storehouse, shop, garage, factory or other building fronting on any paved or unpaved sidewalk in any public street or around the public parks in the City, and of the person having the charge or care of any church, schoolhouse or any public building situate as aforesaid, to remove or cause to be removed all snow, ice or sleet from the sidewalk, whether paved or unpaved, in front of the respective premises within three hours after the same shall have ceased to fall or form thereon, unless such ice or snow is so hardened or frozen that it cannot be removed without injury to the sidewalk, in which case the walk shall be kept sprinkled with sand or sawdust to make the surface of the sidewalk safe, but the ice must be removed as soon as it is possible to do so.

When a building has two or more occupants, the duty of cleaning the sidewalks, as aforesaid, shall devolve upon the occupant of the ground floor. If such ground floor occupants number two or more, each such occupant shall clean the sidewalk immediately in front of his respective portions of the building, together with one-half of the space, if any, intervening between such portion and that of the next adjoining occupant.

Occupants of corner buildings shall clean the sidewalk in front thereof, and also on the sides for the distance back from the corner their occupancy may extend. Sidewalks in front of and at the side of vacant lots or vacant buildings shall be cleaned as aforesaid by the owners of such vacant lots or buildings.

When the owner in any such case is a nonresident, it shall be the duty of the agent of such owner to remove the snow, ice or sleet as aforesaid. In the event of failure, the City will have the snow removed at the expense of the owner of the land. In all cases, the snow, ice or sleet shall, when removed from sidewalks, be thrown toward the outside of the sidewalk and into the roadway. (Ord. 7762 §1. Passed 1-26-34.)

717.02 DEPOSITING SNOW ON ROADWAY PROHIBITED.

No person shall remove snow, ice or sleet from private property or driveways and deposit same on the roadways of the City. (Ord. 7762 §2. Passed 1-26-34.)

717.99 PENALTY.

Whoever violates any of the provisions of this article is guilty of a summary offense, and, upon conviction thereof, shall be punished by a fine of three hundred dollars (\$300.00) or imprisoned not more than ninety days or both. Upon each succeeding offense, the violation shall be subject to the maximum penalties. (Ord. 60-1985 §1. Passed 10-9-85.)

ARTICLE 719  
Streets and Sidewalks

719.01	Obstructions in public places.	719.07	Reserved.
719.02	Reserved.	719.08	Blocking street gutters.
719.03	Reserved.	719.09	Drainage over streets.
719.04	Transporting earth; cash bond.	719.10	Removal of broken glass from streets.
719.05	Obstructions on walks, alleys.	719.99	Penalty.
719.06	Unloading merchandise on sidewalks.		

CROSS REFERENCES

Power to regulate street obstructions - see 3rd Class §2403(16)  
et seq. (53 P.S. §37403(16) et seq.)  
Rubbish hauling regulations - see BUS. REG. Art. 315  
Street openings - see S.U. & P.S. Art. 901  
Property owners to maintain sidewalks - see S.U. & P.S. 903.01

719.01 OBSTRUCTIONS IN PUBLIC PLACES.

All erections or obstructions whatsoever, unless authorized by special resolution of the Mayor and Council, upon any part of any street, public square or public wharf in the City, are declared to be common nuisances. All persons are prohibited from causing, placing, maintaining, allowing or keeping upon any part of any street, public square or public wharf, or any public appendage or construction connected therewith, any merchandise, vehicle, trees, posts, timber, firewood, brick, stone, straw, hay, shavings, manure or any other article, thing or obstruction whatsoever, unless authorized as aforesaid. This shall not repeal existing ordinances relating to space on sidewalks permitted to be occupied for areaways, and by merchants for the display of goods. (Ord. 3011 §1. Passed 10-14-08; Ord. 5909 §1. Passed 10-22-26.)

719.02 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

## 719.03 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

## 719.04 TRANSPORTING EARTH; CASH BOND.

No person shall transport earth over any paved street of the City without first making a cash deposit with the Bureau of Streets as hereinafter provided.

Before any person shall transport earth over any paved street of the City, he shall deposit with the Director of the Department of Public Works cash in an amount not exceeding one hundred dollars (\$100.00), to be determined by the Director, as a guarantee that the person will at the end of each working day clean the street of earth which may fall from the wagons or trucks of such person. In case such person should fail to so clean such streets at the end of each working day, then the City will do so and deduct the cost of such work from the money so deposited as herein required, and return the balance remaining, if any, to the person making the deposit. (Ord. 4965 §1, 2. Passed 10-29-20.)

## 719.05 OBSTRUCTIONS ON WALKS, ALLEYS.

No person shall place or allow to be placed upon the sidewalks in front of his premises any bales, boxes, barrels, hogsheads, crates, lumber, coal, wood, ashes or any article or thing whatsoever that may obstruct such walk. However, bicycle racks may be placed and maintained in the outer edges of the sidewalks, provided such racks shall be not less than twenty-eight nor more than thirty-eight inches in height, and shall not exceed three feet in width, and no such racks shall contain any advertising matter other than the names of the owners.

No person shall drive upon or occupy any part of a sidewalk with any wagon, cart, dray, sleight, sled or other vehicle for the purpose of loading or unloading goods, wares, merchandise or for other purposes, or allow a horse or team to stand upon such walk. No person shall place or allow to be placed in or upon any public alley in the City any wagon, cart or obstruction of any kind that will prevent the free use of such alley. (Ord. of 12-2-1879 §2; Ord. 1890 §1. Passed 7-16-01.)

## 719.06 UNLOADING MERCHANDISE ON SIDEWALKS.

The reasonable use of sidewalks shall be permitted for the purpose of loading and unloading goods, wares and merchandise, etc., and in transferring the same to and from stores, houses, shops, etc., the prohibition aforesaid as to occupancy or obstruction of such walks with wagons, carts, teams, etc., being duly observed. (Ord. of 12-2-1879 §2.)

## 719.07 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

**719.08 BLOCKING STREET GUTTERS.**

No person shall, in the construction of concrete sidewalks, block or fill up the street gutters with sidewalk material, dirt, cinders, lumber or other articles, but shall keep the same at all times clear and free from material or debris. (Ord. 3223 §6. Passed 10-21-10.)

**719.09 DRAINAGE OVER STREETS.**

No person shall allow any drainage or water from any sink, pump or well on his premises to flow upon any street, or the public square of the City. However, any citizen, on application to the Mayor and Council, may have leave to construct and keep, if deemed necessary, a well covered drain one or more feet beneath the surface of any such street or public square, to be constructed under the direction of the Mayor and Council, or some person by them appointed for that purpose. (Ord. of 7-12-1866 §21.)

**719.10 REMOVAL OF BROKEN GLASS FROM STREETS.**

(a) It shall be the duty of any person operating a vehicle in and upon the streets and alleys of the City, in the process of delivering commodities in glass containers or collecting empty glass containers, to immediately clean up and remove from the streets, alleys or sidewalks of the City any broken glass which may result from such delivering and collecting.

(b) Every such vehicle while being so operated shall be equipped with adequate facilities for cleaning up and removing such broken glass, and any person owning or operating such vehicle shall be charged with the duty of providing and maintaining such facilities in or upon such vehicle at all times while it is being so operated. (Ord. 8465 §1, 2. Passed 8-2-49.)

**719.99 PENALTY.**

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 48-1966 §1. Passed 9-28-66.)



ARTICLE 721  
Strikebreakers

721.01	Recruiting strikebreakers prohibited.	721.03	Arranging or contracting for replacement employees.
721.02	Employing strikebreakers; offering self for employment.	721.04	Notice of labor dispute.
		721.99	Penalty.

CROSS REFERENCE  
Strikebreakers - see 43 P. S. §217.21 et seq.

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721.01 RECRUITING STRIKEBREAKERS PROHIBITED.

It shall be unlawful for any person, partnership, agency, firm or corporation, or officer or agent thereof, to recruit, procure, supply or refer any person for employment in place of an employee involved in a labor dispute in which such person, partnership, agency, firm or corporation is not directly interested. (Ord. 34-1963 §1. Passed 9-25-63.)

721.02 EMPLOYING STRIKEBREAKERS; OFFERING SELF FOR EMPLOYMENT.

(a) It shall be unlawful for any person, partnership, firm or corporation, or officer or agent thereof, involved in a labor dispute, to employ in place of an employee involved in such labor dispute any person who customarily and repeatedly offers himself for employment in the place of employees involved in a labor dispute, or to employ any person in place of an employee involved in a labor dispute who is recruited, procured, supplied or referred for employment by any person, partnership, agency, firm or corporation not directly involved in the labor dispute.

(b) It shall be unlawful for any person who customarily and repeatedly offers himself for employment in place of employees involved in a labor dispute to take or offer to take the place in employment of employees involved in a labor dispute. (Ord. 34-1963 §2. Passed 9-25-63.)

721.03 ARRANGING OR CONTRACTING FOR REPLACEMENT EMPLOYEES.

It shall be unlawful for any person, partnership, firm or corporation, or officer or agent thereof, involved in a labor dispute, to contract or arrange with any other person, partnership, agency, firm or corporation to recruit, procure, supply or refer persons for employment in place of employees involved in such labor dispute. (Ord. 34-1963 §3. Passed 9-25-63.)

## 721.04 NOTICE OF LABOR DISPUTE.

It shall be unlawful for any person, partnership, agency, firm or corporation, or officer or agent thereof, to recruit, solicit or advertise for employees, or refer persons to employment, in place of employees involved in a labor dispute, without adequate notice to such person or in such advertisement that there is a labor dispute at the place at which employment is offered and that the employment offered is in place of employees involved in such labor dispute.  
(Ord. 34-1963 §4. Passed 9-25-63.)

## 721.99 PENALTY.

Any person violating any of the provisions of this article shall, upon conviction thereof before any magistrate be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 34-1963 §5. Passed 9-25-63.)

ARTICLE 725  
Weapons

725.01	Air guns, etc.; sale to minors prohibited.	725.04	Seizure and destruction of weapons.
725.02	Possession by minor prohibited.	725.05	Firearms discharge prohibited.
725.03	Permitting minor to use prohibited.	725.99	Penalty.

CROSS REFERENCE

Power to regulate - see 3rd Class §2403(26) (53 P. S. §37403(26))

725.01 AIR GUNS, ETC.; SALE TO MINORS PROHIBITED.

No person shall sell, offer or expose for sale within the City to any minor under eighteen years of age any air rifle or air pistol, commonly known as a B-B gun, slingshot or any similar device. (Ord. 8601 §1. Passed 11-8-50.)

725.02 POSSESSION BY MINOR PROHIBITED.

No minor under eighteen years of age shall use, or possess with the intent to use, within the City any of the aforesaid devices. (Ord. 8601 §2. Passed 11-8-50.)

725.03 PERMITTING MINOR TO USE PROHIBITED.

No person owning or having in his custody any of the aforesaid devices shall permit any minor under eighteen years of age to use the same within the City. (Ord. 8601 §3. Passed 11-8-50.)

725.04 SEIZURE AND DESTRUCTION OF WEAPONS.

The Chief of Police is authorized to seize, remove and destroy any of the aforesaid devices which may be used or discharged within the City by any minor under eighteen years of age, or which may be found in his possession with intent to be used within the City. (Ord. 8601 §4. Passed 11-8-50.)

725.05 FIREARMS DISCHARGE PROHIBITED.

(a) As used in this section certain words are defined as follows:

- (1) "Firearm" means any pistol, revolver, shotgun or rifle.
- (2) "Air rifle" means any air gun, air pistol, spring gun, spring pistol, B-B gun, or any gas powered pistol or gun, or any implement that is not a firearm, which impels a pellet of any kind.

(b) No person shall discharge any firearm or air rifle from or across any street or public land or any public place, except on a properly constructed target range. (Ord. 1-1975 §1. Passed 1-8-75.)

## 725.99 PENALTY.

(a) Whoever violates any of the provisions of Sections 725.01 through 725.04 shall, upon conviction, be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) with costs and, upon default of payment of penalty and costs, be imprisoned not more than thirty days. (Ord. 8601 §5. Passed 11-8-50.)

(b) Whoever violates any of the provisions of Section 725.05 shall be guilty of a summary offense, and, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 1-1975 §1. Passed 1-8-75.)

ARTICLE 727  
Refuse on Sidewalks

727.01	Weeds defined; declared a nuisance; cost collection for work by City. (Repealed)	727.03	Removal; collection of cost.
		727.04	Enforcement.
		727.99	Penalty.
727.02	Refuse on sidewalks and lawns prohibited.		

CROSS REFERENCE  
Weeds - see HLTH. 1115.10

727.01 WEEDS DEFINED; DECLARED A NUISANCE; COST COLLECTION FOR WORK BY CITY.  
(EDITOR'S NOTE: This section was repealed by Ordinance 34-1994, passed April 13, 1994.)

727.02 REFUSE ON SIDEWALKS AND LAWNS PROHIBITED.  
No person shall allow refuse of any kind to be or remain on the portion of any street above specified in front of his premises. It is the intent and meaning of this article that the portion of streets between the property line and the outer edge of the roadway, commonly known as the curb line, which space is ordinarily occupied by lawns, sidewalks and shade trees, shall be kept clean and clear of all kinds of weeds, bushes and refuse, whether growing or cut, by the owner, tenant, occupant or agent of the property immediately abutting such space. (Ord. 2586 §1. Passed 11-15-05.)

727.03 REMOVAL; COLLECTION OF COST.  
In addition to the penalty herein, it shall be the duty of the Bureau of Housing or Department of Parks and Recreation to cause any and all of such weeds, bushes and refuse to be removed at the expense of the owner, tenant, agent or occupant, as the case may be, provided five days' notice has been given to such owner, tenant, agent or occupant to remove the same and he has failed to do so. A bill of the cost of doing such work shall be rendered by the Director of the above-named Bureau or Department to the proper person in each instance and shall be collected by the Director, who may, after failing in the collection of the same, request the aid of the City Solicitor in compelling payment. (Ord. 66-1982 §1. Passed 8-25-82.)

It shall be the duty of the Director of Housing or Director of Parks and Recreation to enforce the provisions of this article. (Ord. 66-1982 §1. Passed 8-25-82.)

727.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 48-1966 §1. Passed 9-28-66.)

ARTICLE 729  
Animals

<p>729.01 Definitions.</p> <p>729.02 Owner to keep animal under restraint.</p> <p>729.03 Power to seize animal.</p> <p>729.04 Impounding.</p> <p>729.05 Impounding unlicensed animal; fees and return.</p> <p>729.06 Impounding licensed animal; notice, fees and return.</p> <p>729.07 Disposition of unclaimed unlicensed animal.</p> <p>729.08 Disposition of unclaimed licensed animal.</p>	<p>729.09 Sale for vivisection prohibited.</p> <p>729.10 Distribution of fines.</p> <p>729.11 Disturbing the peace and desecrating property; violations.</p> <p>729.12 Vicious dogs; definition and regulation.</p> <p>729.13 Application for cat licenses; fees; collection. (Repealed)</p> <p>729.14 Neuter/spay requirement for dogs or cats placed from nonprofit organizations.</p> <p>729.99 Penalty.</p>
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CROSS REFERENCES

Power to enact animal control ordinances - see 3rd Class §2403  
(8) and (9) (53 P.S. §37403(8) and (9))  
Fowl - see GEN. OFF. Art. 707

729.01 DEFINITIONS.

For the purpose of this article, “running at large” means any animal when it is off the property of its owner and not under restraint of a competent person. An animal is under restraint if he is controlled by a leash, at heel beside a competent person and obedient to that person’s commands, or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper. All dogs shall be restrained by a leash not more than six feet in length when off the property limits of the owner and on the public streets, sidewalks or property of the City.  
(Ord. 9-1988 §1. Passed 2-10-88.)

729.02 OWNER TO KEEP ANIMAL UNDER RESTRAINT.

The owner shall keep his animal under restraint at all times and shall not permit such animal to run at large in the City. On property of the owner, custodian or keeper, an animal shall be so controlled or restrained as to prevent it from attacking or threatening letter carriers, delivery persons and any other persons legitimately coming onto the property.  
(Ord. 9-1988 §1. Passed 2-10-88.)

729.03 POWER TO SEIZE ANIMAL.

Any police officer or enforcement officer of the City or any designated agent of the City is empowered to seize and detain any animal running at large. (Ord. 50-1991 § 1. Passed 6-19-91.)

729.04 IMPOUNDING.

All such animals so seized and detained shall be impounded at the shelter of the designated agent of the City, there to be kept in a humane manner as hereinafter provided. (Ord. 50-1991 §2. Passed 6-19-91.)

729.05 IMPOUNDING UNLICENSED ANIMAL; FEES AND RETURN.

Any unlicensed animal so seized and detained shall be properly kept and fed for a period of not less than forty-eight hours. Any person who shall, within such period of time, prove to the satisfaction of the designated agent of the City his ownership or right to the custody of such animal shall, upon payment to such agent of seven dollars (\$7.00) per day or part thereof for the care of such animal while detained and a retention fee of fifteen dollars (\$15.00), be entitled to have his animal returned to him, but shall be subject to arrest and fine as herein provided. Upon the owner's proof, within fifteen days of return, that the animal has been either spayed or neutered, as applicable, and licensed, the owner shall receive a five dollar (\$5.00) rebate from the designated agent of the City. (Ord. 50-1991 §3. Passed 6-19-91.)

729.06 IMPOUNDING LICENSED ANIMAL; NOTICE, FEES AND RETURN.

Any licensed animal so seized and detained shall be properly kept and fed. Immediately upon seizure and detention, notice either in person or by registered mail shall be given to the person in whose name the license was procured, or his agent, to claim such animal within five days. The owner shall be entitled to have his animal returned upon payment to the designated agent of the City of five dollars (\$5.00) per day or part thereof for the care of such animal while detained and a retention fee of ten dollars (\$10.00), but shall be subject to arrest and fine as herein provided. Upon the owner's proof, within fifteen days of return, that the animal has been either spayed or neutered, as applicable, the owner shall receive a five dollar (\$5.00) rebate from the designated agent of the City. (Ord. 50-1991 § 4. Passed 6-19-91.)

729.07 DISPOSITION OF UNCLAIMED UNLICENSED ANIMAL.

Any unlicensed animal not claimed within forty-eight hours after its seizure shall become the property of the designated agent of the City and shall be disposed of in a humane manner either by sale or adoption or other humane method of disposition. However, if because of illness or disease, such animal cannot be retained humanely for forty-eight hours, then in the discretion of the designated agent of the City, such animal may be disposed of in a humane manner in a period of less than forty-eight hours after its seizure. (Ord. 50-1991 §5. Passed 6-19-91.)

**729.08 DISPOSITION OF UNCLAIMED LICENSED ANIMAL.**

Any licensed animal not claimed within five days after notice of its seizure, as herein provided, shall become the property of the designated agent of the City and shall be disposed of in a humane manner either by sale or adoption or other humane method of disposition. However, if because of illness or disease, such animal cannot be retained humanely for five days, then in the discretion of the designated agent of the City, such animal may be disposed of in a humane manner in a period of less than five days after its seizure.  
(Ord. 50-1991 §6. Passed 6-19-91.)

**729.09 SALE FOR VIVISECTION PROHIBITED.**

No animal so caught and detained shall be sold for the purpose of vivisection.  
(Ord. 51-1967 §9. Passed 10-4-67.)

**729.10 DISTRIBUTION OF FINES.**

Any fines collected pursuant to this article shall be paid by the district justice court or police court to the City to be utilized by the City for animal control.  
(Ord. 50-1991 §7. Passed 6-19-91.)

**729.11 DISTURBING THE PEACE AND DESECRATING PROPERTY;  
VIOLATIONS.**

(a) No person shall own, harbor or keep in custody any animal which disturbs, interferes or otherwise deprives the peace, quiet, rest, or sleep of any person within the City, by such animal making any loud or harsh noise or disturbance. Continuous barking, howling or the making of other loud noises by such animal for more than any fifteen minute time period, which periods occur on two or more consecutive days or nights, shall be deemed to disturb the peace, quiet, rest, sleep and to cause the annoyance and discomfort of persons in the City.

(b) It shall constitute a violation of this section for any person owning, harboring, keeping or in charge of any animal to cause, suffer or allow any such animal to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, by pass, play area, park or any place where people congregate or walk, or any public property whatsoever, nor on any private property without permission of the owner of such property. All dog owners shall immediately remove any feces deposited by the owner's animal upon the public ways or property aforesaid and dispose of such fecal matter in a proper and sanitary manner. (Ord. 9-1988 § 1. Passed 2-10-88.)

(c) Any City resident may request the City Police Bureau to enforce any provision of this article against any person who owns, harbors or keeps in custody any animal which disturbs the peace, quiet, rest, sleep of any person within the City by barking, howling, or making loud noises, or which soils, defiles, defecates on or commits any nuisance on any common thoroughfare, sidewalk, passageway, by-pass, play area, park or any place where people congregate or walk, or on any public property whatsoever, or on any private property without permission of the owner of such property.

(d) Any such request shall identify and specify the residence of the owner, keeper or custodian of the animal. (Ord. 61-1985 §1. Passed 10-23-85.)

## 729.12 VICIOUS DOGS; DEFINITION AND REGULATION.

(a) "Vicious dog", as the term is used in this section, means:

- (1) Any dog with a propensity, tendency or disposition to attack, to cause injury or otherwise endanger the safety of human beings or other domestic animals;  
or
- (2) Any dog which attacks a human being or another domestic animal one or more times without provocation.

(b) It shall be a violation for any person to own, harbor or have care of any dog which acts in the manner specified in subsections (a)(1) or (2) hereof. Upon conviction of the owner, harborer or caretaker of such violation, the dog shall be declared a "vicious dog" and subject to further restraints as listed in this section in addition to the penalties provided under this article.

(c) An owner etc., who has been convicted under subsection (b) hereof may rebut the declaration of viciousness and remove the dog from the additional restraints of this section by presenting within fourteen days of such conviction the written consensus of opinion of a licensed veterinarian, a certified dog trainer, and a breeder of the dog's specific breed to the effect that the dog is not vicious despite the established facts of the behavior which resulted in conviction. (Ord. 9-1988 §1. Passed 2-10-88.)

(d) Within fourteen days of a declaration of a dog as a "vicious dog" under this section, the owner, harborer or other caretaker of the dog shall provide proof satisfactory to the Dog Enforcement Officer that:

- (1) The dog is and shall be all times confined when on the premises of such person. "Confine", for purposes of this subsection, means securely locked indoors or kept in a securely enclosed and locked pen or similar structure on the premises of such owner, etc. The pen or other structure shall have secure sides and a secure top and if there is no bottom secured to the sides, the sides shall be embedded in the ground no less than one foot; and
- (2) The vicious dog shall not be permitted off the premises of such owner, etc., unless such dog is securely leashed and muzzled, unless such dog is being shown in a sanctioned American Kennel Club show or upon prior approval of the Dog Enforcement Officer.

Failure to comply with this subsection within fourteen days as aforesaid shall subject the dog to immediate relinquishment to the designated agent of the City for impoundment and destruction as provided by this article or other applicable law.

(e) Any dog which has previously been declared vicious under this section and subsequently attacks a human being or other domestic animal unprovoked which action results in the conviction of the owner, etc., under subsection (b) hereof shall immediately be subject to seizure and impoundment by the designated agent of the City for destruction as provided by this article or other applicable law. The compliance of the owner, etc., with all restraints imposed by this article shall not be a defense under this subsection.  
(Ord. 50-1991 §8. Passed 6-19-91.)

729.13 APPLICATIONS FOR CAT LICENSES; FEES; COLLECTION.  
(REPEALED)

(EDITOR'S NOTE: Former Section 729.13 was repealed by Ordinance 3-1998, passed January 21, 1998.)

729.14 NEUTER/SPAY REQUIREMENT FOR DOGS OR CATS PLACED FROM  
NONPROFIT ORGANIZATIONS.

Any dog or cat adopted or placed from a government or nonprofit organization, including City shelters, shall be spayed or neutered according to the following schedule:

- (a) Dogs or cats under six months of age at time of placement shall be neutered or spayed, as applicable, by six months of age or when deemed appropriate by a veterinarian.
- (b) Dogs or cats six months of age or older at time of placement shall be neutered or spayed, as applicable, within thirty days of date placed.

The owner shall present to the nonprofit placement organization proof of neutering or spaying in the form of a veterinarian's certificate or an affidavit of the owner, within the prescribed time period. The penalty provisions of this article shall apply to all violators.  
(Ord. 50-1991 §10. Passed 6-19-91.)

729.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. Any police officer or enforcement officer of the City shall be authorized upon personal knowledge or upon information received of a violation of this article to issue citations and institute prosecution under this article. A citation for a first offense under this article shall be reduced to a warning with no penalty if the owner of the animal in violation can produce, in writing, within fifteen days of the citation, proof that the animal as been:

- (a) Spayed (female animals) or neutered (male animals);
- (b) Licensed; and
- (c) Vaccinated against distemper, rabies and rhino (that is the "three-way" vaccination, for cats only) or distemper, rabies and parvovirus (for dogs only).

(Ord. 50-1991 §11. Passed 6-19-91.)







ARTICLE 733  
Concealing Identity

733.01	Definitions.	733.05	Constitutional rights
733.02	Conduct prohibited.	733.09	inviolate.
733.03	Presence on property of another.	733.99	Penalty.
733.04	Exemptions.		

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733.01 DEFINITIONS.

As used in this article, "public places" means all walks, alleys, streets, boulevards, avenues, lanes, roads, highways or other ways or thoroughfares dedicated to public use or owned or maintained by public authority; and all grounds and buildings owned, leased or operated for the use of organizations enjoying all tax-exempt privileges as charitable use.  
(Ord. 6-1999. Passed 2-3-99.)

733.02 CONDUCT PROHIBITED.

No person shall, while wearing any hood which conceals the identity by hiding the face, mask or other device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, enter, be or appear in any public place within the City of Erie, if such person is engaged in conduct prohibited by criminal or civil rights law.  
(Ord. 6-1999. Passed 2-3-99.)

733.03 PRESENCE ON PROPERTY OF ANOTHER.

No person shall, while wearing any hood which conceals the identity by hiding the face, mask or device whereby a substantial portion of the face is hidden or covered so as to conceal the identity of the wearer, demand entrance or admission, enter or come upon or into, or be upon or in the premises, enclosure or house of any other person in the City of Erie, unless he shall have first obtained the written permission of the owner and the occupant of such property, if such person is engaged in conduct prohibited by criminal or civil rights law.  
(Ord. 6-1999. Passed 2-3-99.)

**733.04 EXEMPTIONS.**

It is specifically declared that the City of Erie does not intend to criminalize the concealment of identity alone, apart from other criminality or actual deprivations of civil rights of other persons engaged in while identity is concealed. Most specifically, the following are set forth as general exemptions from the scope of the prohibitions set forth in Sections 733.02 and 733.03 hereof, so long as the person is not engaging in criminal acts or violating the civil rights of others while concealing identity:

- (a) Any person under sixteen years of age;
- (b) Any person wearing a traditional holiday costume in season;
- (c) Any person using masks in theatrical productions including use in celebrations and masquerade balls;
- (d) Any person lawfully engaged in trades or employment or in a sporting activity where a mask or facial covering is worn for the purpose of ensuring the physical safety of the wearer, or because of the nature of the occupation, trade or professional or sporting activity;
- (e) Any person wearing a gas mask in drills, exercises or emergencies;
- (f) Any person wearing a mask or wearing apparel in season as personal protection against cold weather;
- (g) Any person wearing a mask because of any illness, allergy, or on the advice of his or her physician;
- (h) Any person expressing a religious belief or observance, or engaging in any other expressive conduct or preservation of anonymity protected by the Constitution of the United States or Pennsylvania.  
(Ord. 6-1999. Passed 2-3-99.)

**733.05 CONSTITUTIONAL RIGHTS INVIOLETE.**

No portion of this article shall be so construed as to violate the constitutional rights of any person under the Constitutions of the Commonwealth of Pennsylvania or the United States of America. (Ord. 6-1999. Passed 2-3-99.)

**733.99 PENALTY.**

Any person who violates any provision of this article shall be guilty of a summary offense, and if convicted, shall be fined not more than one thousand dollars (\$1,000) and/or imprisoned not more than ninety days.  
(Ord. 6-1999. Passed 2-3-99.)

ARTICLE 735  
Skateboards

735.01 Definitions.	735.99 Penalty.
735.02 Prohibitions.	

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735.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Skateboard" means a board made of wood, fiberglass, or other material or combination of materials mounted on two axles, front and rear, with wheels made of clay, polyurethane or other material or combination of materials attached to each axle. The term "skateboard" includes motorized skateboards propelled by a motor mounted on the skateboard.
- (b) "Skateboarding" means lying, sitting, squatting, kneeling or standing upon a skateboard and propelling oneself by any means which causes the skateboard to move, including but not limited to: jumping on a skateboard; being pulled or pushed while situated on a skateboard; pushing the ground or other surface with one foot while keeping one's other foot on the skateboard; by riding a skateboard from one elevation to a lower elevation; or by operation of a motor mounted on a skateboard.
- (c) "Perry Square Park" means that area lying within and bounded by the north right-of-way line of North Park Row; the south right-of-way line of South Park Row; the west right-of-way line of Peach Street; and the east right-of-way line of French Street.
- (d) "Transitway Mall" means that area lying within and bounded by the south right-of-way line for Tenth Street; the north right-of-way line of South Park Row; the west right-of-way line of State Street; and the east right-of-way line of State Street. (Ord. 92-1989 §1. Passed 11-1-89.)

735.02 PROHIBITIONS.

- (a) Skateboarding is prohibited in Perry Square Park and the Transitway Mall.
- (b) Skateboarding is prohibited on all other City owned and/or controlled property, except as may be specifically authorized by the appropriate governmental entity. (Ord. 92-1989 §1. Passed 11-1-89.)

735.99 PENALTY.

Whoever violates any provision of this article shall be fined not more than three hundred dollars (\$300.00) and for imprisoned for not more than thirty days for each offense. (Ord. 92-1989 §1. Passed 11-1-89.)



ARTICLE 736  
Recreational Motor Vehicles

736.01 Definitions.	736.99 Penalty.
736.02 Prohibited conduct.	
736.03 Minimum equipment requirements.	

736.01 DEFINITIONS.

As used in this article, certain terms shall have the following meanings:

- (a) "Recreational motor vehicle" means any motorized vehicle, and any vehicle propelled or drawn by a motorized vehicle, used for recreational purposes, including but not limited to all-terrain vehicles most commonly known as trail bikes, motor-driven cycles, motorized pedacycles, motor-bikes, motorized mini-bikes, motor scooters, dirt bikes, go-carts, motorcycles, hovercraft and motor vehicles licensed for highway operation which are being used for off-road recreational purposes. This definition does not include snowmobiles or vehicles propelled solely by human power.
- (b) "Residential districts" means districts designated for dwellings and the uses normally associated with residential neighborhoods, including schools, churches and parks, designated as R-1, R-2 and R-3 in the City Zoning Ordinance.
- (c) "Transitional use districts" means districts designated for medium density residential developments, all public and semi-public uses and limited business activities, designated as T-1 in the City Zoning Ordinance.  
(Ord. 18-1992 Sec. 1. Passed 4-15-92.)

736.02 PROHIBITED CONDUCT.

No person shall:

- (a) Operate a recreational motor vehicle on any City-owned and/or controlled property located in residential and transitional use districts, including public school grounds, park property, playgrounds and recreational areas.

- (b) Enter and operate a recreational motor vehicle on land not his own without the written or oral permission of the owner, occupant or lessee of the land, except where otherwise allowed by law. Written permission may be given by a posted notice which specifies the kind of vehicles allowed, such as "Recreational Vehicles Allowed", "Trail Bikes Allowed", "All-Terrain Vehicles Allowed" or words substantially similar.
  - (c) Operate a recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others or in any manner which endangers or is likely to endanger any person or property.
  - (d) Operate a recreational motor vehicle in excess of twenty-five miles per hour on publicly owned land.
  - (e) Operate a recreational motor vehicle within 150 yards of a gathering of people.
  - (f) Post, alter, mutilate or remove any notice or sign relating to recreational motor vehicles on property in which he has no legal interest.
  - (g) Enter or leave the lands of another with a recreational motor vehicle, or pass from one portion of those lands to another, through a closed gate, without returning the gate to its original position. No person shall enter or leave the lands of another with a recreational motor vehicle by cutting a wire or tearing down or destroying a fence.
  - (h) Operate a recreational motor vehicle in a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
  - (i) Operate a recreational motor vehicle upon any sidewalk or pedestrian way in the City.
- (Ord. 18-1992 Sec. 1. Passed 4-15-92.)

#### 736.03 MINIMUM EQUIPMENT REQUIREMENTS.

(a) Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation to the minimum necessary. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a recreational motor vehicle; and the exhaust system shall not emit or produce a sharp popping or cracking sound.

(b) Brakes shall be adequate to control the movement of and to stop and hold the vehicle under all conditions of operation.  
(Ord. 18-1992 Sec. 1. Passed 4-15-92.)

#### 736.99 PENALTY.

Whoever violates the provisions of Section 736.02 or 736.03 shall be fined not more than three hundred dollars (\$300.00) and/or imprisoned for not more than ninety days for each offense, and a separate offense shall be deemed committed on each day on which a violation occurs or continues.  
(Ord. 18-1992 Sec. 1. Passed 4-15-92.)

ARTICLE 737  
Loitering in Aid of Drug Offenses

737.01	Definitions.	737.04	Defenses.
737.02	Prohibitions.	737.99	Penalty.
737.03	Factors to determine purpose.		

CROSS REFERENCES

Controlled Substance, Drug, Device and Cosmetic Act - see 35 P.S. Sec. 780-101 et seq.  
Loitering - see GEN. OFF. 705.02(h)

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737.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Drug abuse offense" means a violation of the Controlled Substance, Drug, Service and Cosmetic Act 35 P.S. 780.101 et seq. and "controlled substances" means in the same manner as set forth in the aforesaid Act.
- (b) "Loiter" means to resort to, remain or wander about in an idle manner essentially in one place and includes the concepts of spending time idly, or sitting, standing or walking about aimlessly.
- (c) "Public place" means an area of property, either publicly owned or to which the public has access, and includes, but is not limited to streets, alleys, sidewalks, rights-of-way, bridges, plazas, parks, driveways, parking lots, transportation facilities or other place open to the public, the doorways, entrances, porches, passageways, and roofs to any such building which fronts on any of the aforesaid places, or motor vehicles in or upon such places.  
(Ord. 29-1993 Sec. 1. Passed 4-7-93.)

737.02 PROHIBITIONS.

- (a) No person, with purpose to commit or aid the commission of a drug abuse offense, shall loiter in any public place, and do any of the following:
  - (1) Repeatedly beckon, stop, attempt to stop, or engage passers-by or pedestrians in conversation; or
  - (2) Repeatedly stop or attempt to stop motor vehicles; or
  - (3) Repeatedly interfere with the free passage of other persons.
- (b) No person, with purpose to commit or aid the commission of a drug abuse offense, shall loiter in any public place.  
(Ord. 29-1993 Sec. 1. Passed 4-7-93.)

**737.03 FACTORS TO DETERMINE PURPOSE.**

In determining the purpose of an offender under this article the Court shall consider all relevant surrounding circumstances, which may include but are not limited to the following factors in addition to the overt acts set forth in Section 737.02(a):

- (a) That the person has been convicted or been found delinquent for a drug abuse offense within the three years preceding the arrest;
  - (b) That the person is loitering and directing pedestrians or motorists through words, hailing, waving of arms, pointing, signalling or other bodily gesture to a person or premises where controlled substances are possessed or sold;
  - (c) That the person is loitering and has an electronic device, walkie-talkie or beeper within 100 yards of a person or premises where controlled substances are possessed or sold; or
  - (d) Any statement by the offender.
- (Ord. 29-1993 Sec. 1. Passed 4-7-93.)

**737.04 DEFENSES.**

No arrest shall be made for a violation of this article until the arresting officer first requests and affords such person an opportunity to explain such conduct, and no person shall be convicted upon trial if it appears that the explanation tendered is true and considering the surrounding circumstances disclosed a lawful purpose.

(Ord. 29-1993 Sec. 1. Passed 4-7-93.)

**737.99 PENALTY.**

Whoever violates any provision of this article is guilty of loitering in aid of drug offenses, a summary offense, and upon conviction, is subject to a fine not to exceed one thousand dollars (\$1,000), or upon imprisonment of not more than ninety days or both.

(Ord. 29-1993 Sec. 1. Passed 4-7-93.)

