

# CHAPTER 9

## ORDERLY CONDUCT

**9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.** The following Statutes following the prefix "9" defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under sec. 25.04 of this Code.

9.161.573	Possession of drug paraphernalia
9.291	Child Safe Zones
9.346.935	Drinking in Motor Vehicles on Highway
9.390.05	Parties to Violations
9.939.32(3)	Attempt (Adopted 9-9-97)
9.940.19(1)	Battery
9.940.34	Duty to Aid Endangered Crime Victim
9.941.01	Negligent Operation of Vehicle
9.941.03	Highway Obstruction
9.941.10	Negligent Handling of Burning Materials
9.941.12	Interfering With or Failing to Assist in Fire Fighting
9.941.13	False Alarms and Interference With Fire Fighting
9.941.20	Reckless Use of Weapon
9.941.21	Disarming a Police Officer Prohibited
9.941.23	Carrying Concealed Weapon
9.941.24	Possession of Switch Blade Knife
9.941.37	Obstruction of Emergency Vehicles Prohibited
9.943.02(1)	Criminal Damage to Property (Less Than \$500)
9.943.06	Molotov Cocktails
9.943.13	Criminal Trespass to Land
9.943.14	Criminal Trespass to Dwellings
9.943.15	Entry Onto a Construction Site
9.943.20	Theft (Adopted 8-14-97)
9.943.21	Fraud on Hotel or Restaurant Keeper Recreational Attraction Taxi Cab Operator or Gas Station
9.943.24	Issue of Worthless Checks
9.943.34	Receiving Stolen Property (Adopted 12-19-96)
9.943.46	Theft of Cable TV
9.943.50	Shoplifting
9.944.20	Lewd and Lascivious Behavior
9.944.23	Making Lewd, Obscene or Indecent Drawings
9.944.30	Prostitution
9.944.31	Patronizing Prostitutes
9.944.33	Pandering
9.944.34	Keeping Place of Prostitution
9.945.02	Gambling
9.946.40	Refusing to Aid Officer

9.946.41	Resisting or Obstruction Officer
9.946.42	Escape
9.946.44	Assisting or Permitting Escape
9.946.65	Obstructing Justice
9.946.70	Impersonating Peace Officer
9.946.72	Tampering With Public Records and Notices
9.947.01	Disorderly Conduct
9.947.012	Unlawful Use of the Telephone (Adopted 3-9-99)
9.947.0125	<u>Unlawful Use of Computerized Communication Systems</u>
9.947.013	Harassment Prohibited
9.947.015	Bomb Scares
9.947.047	Littering Shores
9.947.06	Unlawful Assemblies
9.947.15	Contributing to the Neglect of a Minor
9.948.01-.16	Crimes Against Children
9.951.01-.17	Crimes Against Animals

**9.02 POSSESSION AND USE OF FIREARMS AND OTHER DANGEROUS WEAPONS.**

(1) DEFINITIONS. For the purposes of this section, the following definitions shall apply:

(a) Firearm. Any weapon from which a shot may be fired by the force of an explosive or propellant, including, but not limited to, rifles, pistols, shotguns, air guns and BB guns.

(b) Other Dangerous Weapons. Includes bow and arrow, crossbow, sling shot, blow gun and other similar weapons.

(c) Public Building. Any building, including the grounds thereof, owned by the State or Federal governments, the City, the County or the Public School District.

(d) Public Land. Any land owned by the State or Federal governments, the City, the County or the Public School District.

(e) Public Place. Any privately owned building which is open to the public.

(f) Carrying Case. A carrying case is a gun case or other device which completely encloses the firearm. A holster for a hand gun is not a legal carrying case within the provisions of this ordinance.

(2) POSSESSION OF FIREARMS PROHIBITED. In addition to the provisions of sub. (3) below, no person except duly authorized city, village, county, state or Federal law enforcement officers specifically authorized by law to carry firearms, shall possess a firearm while in any public building or on public land within the City. No person shall possess a firearm while in any public place within the City unless written consent to so possess a firearm has been given by the owner or lessee of

such public place, and such possession is not contrary to § 440.26, Wis. Stats. This paragraph shall not apply to those persons hunting nor to those persons who are legally possessing a firearm and/or bow, as long as said firearm and bow are legally cased.

(3) USE OF FIREARMS.

(a) Regulated. No person except an authorized police officer shall discharge any firearm within the City or have any firearm in his possession within the City unless it is unloaded and

enclosed in a carrying case or other suitable container, except as provided in par. (b) below.

(b) Exceptions.

1. Pest control permits issued by the Chief of Police.
2. Special permits issued by the Council upon request.
3. Those persons hunting pursuant to the policy adopted by the Common Council related to controlled hunting on the Clintonville Municipal Airport property.

(4) USE OF OTHER DANGEROUS WEAPONS.

(a) Regulated. No person shall shoot or discharge any other dangerous weapon anywhere in the City except as provided in par. (b) below.

(b) Exceptions.

1. Supervised areas designated as shooting ranges by the Council.
2. Uses granted under a conditional use permit pursuant to ch. 17 of this Code.
3. Those persons hunting pursuant to the policy adopted by the Common Council related to controlled hunting on the Clintonville Municipal Airport property.

**9.03 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.** No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the City. This paragraph shall not apply to those persons hunting pursuant to the policy adopted by the Common Council related to controlled hunting on the Clintonville Municipal Airport property.

**9.04 MARIJUANA, POSSESSION AND USE PROHIBITED.**

(1) DEFINITION. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

(2) POSSESSION, DELIVERY AND USE PROHIBITED. It shall be unlawful for any person to possess, deliver, sell or use marijuana or a marijuana derivative. This section shall include, but not be limited to, those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.

(3) EXCEPTION. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.

(4) PENALTY. Any person who shall violate any provision of this section shall, upon conviction, be subject to a forfeiture as provided in Sec. 25.04 of this Code.

**9.045 SMOKING PROHIBITED IN CITY BUILDINGS.**

(1) DEFINITIONS. For the purpose of this section the following definition shall apply.

(a) City Building. As any building owned by the City of Clintonville, including any buildings owned by any municipal utility, and not leased to private individuals or corporations.

(b) School Premises. Buildings and property owned or rented under the control of the School Board.

(2) PROHIBITED. Except as provided in sub. (3) below, no person may smoke within a city building.

(3) EXCEPTIONS.

(a) A City department head may designate smoking in areas in which such action complies with the purpose of protecting the health and comfort of the public and City employees.

(b) Any defendant or suspect in custody of the Police Department shall be permitted to smoke during questioning.

**9.046 POSSESSION OR USE OF TOBACCO PRODUCTS BY MINORS, PROHIBITED; PENALTIES**

(1) In this section:

- Statutes;  
Wisconsin Statutes;  
Wisconsin Statutes.
- (a) "Cigarette" had the meaning given in Section 139.30 (1), Wisconsin
  - (b) "Law enforcement officer" has the meaning given in Section 30.50 (45),
  - (c) "Tobacco products" has the meaning given in Section 139.75 (12),

(2) Except as provided in sub (3), no person under 18 years of age may do any of the following:

- (a) Buy or attempt to buy any cigarette or tobacco product;
- (b) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- (c) Possess any cigarette or tobacco product.

(3) A person under 18 years of age may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Section 134.65 (1), Wisconsin Statutes.

(4) A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of this ordinance, committed in his or her presence.

**9.047 RESTRICTIONS ON SALE OR GIFT OF CIGARETTES OR TOBACCO PRODUCTS**

(1) Section 134.66, Wisconsin Statutes, Restrictions on Sale or Gift of Cigarettes or Tobacco Products, is adopted by reference and made a part of this ordinance.

(2) Restrictions. No person may sell or give cigarette or tobacco products to any person under the age of 18, except as provided in Section 9.046 (3). (Adopted 8-14-97)

(3) Penalty. A person who commits a violation of this ordinance is subject to the penalties in Section 134.66 (4), Wisconsin Statutes.

**9.05 SALE AND USE OF FIREWORKS REGULATED.**

(1) DEFINITION. The definition of "fireworks" stated in §167.10(1), Wis. Stats., is hereby adopted by reference.

(2) SALE REGULATED. Except as provided in §167.10(2) and (4), Wis. Stats., no person shall sell, or possess with the intent to sell, fireworks.

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(3) USE REGULATED. Except as provided in §167.10(3), Wis. Stats., no person shall possess or use fireworks without a user's permit issued pursuant to sub. (4) below.

(4) USER'S PERMIT. As provided in §167.10(3), Wis. Stats., fireworks user's permits may be issued by the Mayor, or other City official designated by the Mayor. The official issuing the permit shall require a certificate of liability insurance, or similar proof of coverage, in an amount he deems necessary. A copy of the permit and proof of insurance shall be filed with the Clerk and copies of the permit shall be given to the Fire Chief and the Chief of Police at least 2 days before the authorized use.

(5) USE OF CERTAIN DEVICES REGULATED. No person may use fireworks or devices listed in §167.10 (1)(e) to (g) and (i) to (n), Wis. Stats., including, but not limited to, caps, toy snakes, model rocket engines, sparklers or cone fountains at a fireworks display for which a permit has been issued if the display is open to the general public.

### **9.06 LOUD AND UNNECESSARY NOISE PROHIBITED.**

(1) GENERAL. No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(2) PUBLIC ADDRESS SYSTEMS AND AMPLIFIERS. No person shall use or operate any P.A. system, amplifier or device which increases the volume of voice, music or other sounds so loud as to disturb the public peace or the quiet and peacefulness of the neighborhood.

(3) CONSTRUCTION AND MACHINERY NOISE. Except for City employees, between the hours of 10:00 P.M. and 6:00 A.M. no person shall do construction work or operate any chain saw, lawn mower or any other loud machinery of a similar nature.

### **9.07 LOITERING PROHIBITED.**

(1) LOITERING OR PROWLING. No person shall loiter or prowl in a place at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears, at trial, that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(2) OBSTRUCTION OF HIGHWAY BY LOITERING. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

(3) OBSTRUCTION OF TRAFFIC BY LOITERING. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the City in such manner as to prevent, interfere with or obstruct the ordinary free use of such public sidewalks, streets, street crossing and bridges or other public places by persons passing along and over the same.

(4) LOITERING AFTER BEING REQUESTED TO MOVE. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant after being requested to move by any police officer or by any person in authority at such places.

(5) LOITERING IN PUBLIC PLACES. No person shall loiter, lounge or load in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by the owner or person in charge or any police officer. Upon being requested to move, a person shall immediately comply with such request.

(6) LOITERING IN OR ON SCHOOL PROPERTY. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander or stand in or on any school property within the City between 7:00 A.M. and 5:00 P.M. on official school days.

**9.08 CONSUMPTION OF FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR ON PUBLIC PROPERTY AND PARKING LOTS PROHIBITED.**

(1) DEFINITIONS.

(a) Public Property. Any property, including buildings or structures thereon, which is owned, leased or operated by the City, or public, private or parochial schools; public sidewalks; roadways and streets; playgrounds; parks; and alleys.

(b) Public Parking Lot. Any area held out to the public for the parking of motor vehicles, whether such area is publicly or privately owned.

(c) Licensed Premises. The area within a building or structure which is licensed pursuant to Ch. 12 of this Code, but not including parking lots, sidewalks, roadways or land which is adjacent to the building or structure and within the property boundary lines.

(2) CONDUCT PROHIBITED. No person may possess, upon any public property or public parking lot, any open container of a fermented malt beverage or intoxicating liquor, nor may any person consume such beverage upon any public property or public parking lot. (Adopted 12-19-96)

(3) CONDUCT PROHIBITED OUTSIDE LICENSED PREMISES. No person who has purchased fermented malt beverages or intoxicating liquor from any licensed premises shall consume said beverages or liquor outside of, but within the property boundary lines of, such premises.

(4) EXCEPTIONS.

- (a) The prohibitions in subs. (2) and (3) above shall not apply to those events or activities which are otherwise permitted or licensed pursuant to Ch. 12 of this code.
- (b) The prohibition in sub. (2) above shall not apply to a school-sponsored activity when specifically permitted in writing by the school administrator.
- (c) The prohibitions in subs. (2) and (3) above shall not apply to those persons who transport unopened fermented malt beverages or intoxicating liquor from a point of purchase to their destination unless it is in violation of §346.93, Wis. Stats.
- (d) The prohibition in sub. (2) above shall not apply to fermented malt beverages consumed at picnics in City parks.
- (e) The prohibition in sub. (2) above shall not apply to private groups who use the Rec Center and the Community Center, provided prior authorization is received from the Park and Recreation Department.

**9.09 ANIMALS AND POULTRY NOT TO RUN AT LARGE.** No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the City.

**9.091 PROHIBITION OF ANIMALS IN CERTAIN LOCATIONS**

- (1) At any events to which the City contributes money, no owner or person having control of any animal shall permit said animal to enter into or be upon any public park, municipal parking lot, or any other public grounds where the public is invited or for an event which is open to the public, even if said animal is leashed and within the immediate control of the owner or custodian of the animal.
- (2) This ordinance shall not apply to:
  - (a) animals which assist handicap persons;
  - (b) parades;
  - (c) any animals which participate in or are part of said event;
  - (d) animals used to transport people to the event specified in (1) above, provided however that any such animals must to properly secured to the City's hitching posts.

**9.10 KEEPING OF LIVESTOCK AND POULTRY REGULATED.**

- (1) No person shall keep or maintain any poultry or fowl, or any livestock such as horses, cattle, sheep, pigs, goats or pigeons except in the RT Rural Transitional District or except as permitted by (2) herein.
- (2) Miniature or Vietnamese Potbellied Pigs as Household Pets.
  - (a) Ownership of a pig or other swine animal as a household pet is prohibited except if such animal is a miniature or Vietnamese potbellied pig, *Sus Scrofa Vittatus*, is no younger

than six weeks of age, weighs no more than 200 pounds, and no more than twenty-four inches in height to be measured to the top of the front shoulder, and is kept for the sole purpose of providing human companionship. Ownership of such an excepted pig, hereinafter A pet miniature or potbellied pig shall be regulated by the provisions of this part.

(b) No household shall own or keep more than three (3) pet miniature or potbellied pigs.

(c) Every pet miniature or potbellied pig shall be maintained primarily within the property of its owner(s). No pet miniature or potbellied pig shall run-at-large.

(d) No pet miniature or potbellied pig shall be starved or otherwise deprived of healthful sustenance appropriate for its species and particular nature. Depriving a pet miniature or potbellied pig of healthful sustenance for any purpose, to include the purpose of stunting its growth or having it conform to the weight or height provisions in this ordinance, shall not constitute an exception to the provision.

(e) It shall be unlawful for any person in the City to own, harbor or keep a pet miniature or potbellied pig more than 5 months of age without a licensing the same with the City and affixing a tag to the animal 's collar.

(f) License fee. The license fee for a pet miniature or potbellied pig shall be set by Council resolution.

**9.11 LITTERING.**

(1) **PROHIBITED.** No person shall deposit any mud, glass, refuse or waste, filth or other litter upon the streets, highways, alleys, parks or other property of the City or upon any private property or into or upon any body of water or stream within the City.

(2) **PENALTY.** Any person found guilty of violating this section shall be subject to a forfeiture, as provided in Sec. 25.04 of this Code, plus the cost of cleanup. Each day a violation continues shall constitute a separate violation.

**9.12 OPEN BURNING.**

(1) **PRIOR APPROVAL.**

(a) Except as provided in par. (b), all persons shall obtain authorization from the fire chief or his or her designee before kindling or maintaining any open burning or authorizing the kindly or maintaining of any open burning.

(b) The following open burning shall be permitted without authorization from the fire chief:

1. Outdoor cooking;
2. Campfires; and
3. Training for fire departments.

(c) The burning of rubbish, garbage, trash, any material made of or coated with rubber, plastic, leather or petroleum based materials and any flammable or combustible liquids is banned.

(d) Any person requesting a permit from the Fire Chief shall comply with the regulations contained under ILHR 14.10.

(2) CITATIONS. The Fire Chief or his or her designee may issue citations for violation of this ordinance.

**9.13 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.** No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

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

**9.15 CURFEW**

(1) Restrictions.

- (a) No individual between the ages of 14 years through 17 years shall remain upon any street or alley or other public place in the City between 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday and 6:00 a.m. the next day, and between 12:00 midnight on Friday and Saturday and 6:00 a.m. the next day.
- (b) No individual under the age of 14 years shall remain upon any street or alley or other public place in the City between 10:00 p.m. and 6:00 a.m. the next day.

(2) Exceptions. The following shall constitute valid exceptions to the operation of the curfew:

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- (a) At any time, if the individual is accompanied by his or her parent, or guardian. "Parent" means a person who is a natural parent, adoptive parent or stepparent of another person. "Guardian" means a person who, under Court Order, is the guardian of the minor; or a public or private agency with whom a minor has been placed by a Court.
- (b) At any time, the individual is involved in an emergency.
- (c) At any time, while the individual is pursuing the duties of his or her employment.
- (d) On an errand at the written direction of his or her parent or guardian, without any detour or stop (written direction must be signed, timed and dated by the parent or guardian and must indicate the specific errand). This exception shall apply no later than 12:30 a.m.
- (e) Attending, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, Clintonville School District, a civic organization, or another similar entity that takes responsibility for the minor. If the event is not commercial in nature or does not have a fixed publicly known time at which it will end, the sponsoring organization must register the event with the Police Department at least 24 hours in advance informing it of the time such event is scheduled to be, the place at which it will be held, the time at which it shall end and the name of the sponsoring organization. This exception will apply for one-half hour after the completion of such event, but in no case beyond 12:30 a.m.
- (f) If the individual is on the property of or the sidewalk directly adjacent to the building in which he or she resides.

**9.16 DESTRUCTION OF PROPERTY PROHIBITED.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the City or its departments or to any private person without the consent of the owner or proper authority.

### **9.17 ACCIDENTAL SPILLS OF HAZARDOUS OR DETRIMENTAL SUBSTANCES.**

#### (1) HAZARDOUS SUBSTANCE SPILLS.

(a) DNR Notification Required. Any person who possesses or controls a "hazardous substance," as defined in §144.01(4m), Wis. Stats., which has been discharged or spilled, or who causes the discharge or spilling of such hazardous substance, shall immediately notify the Wisconsin Department of Natural Resources of any such spill or discharge as required in §144.76, Wis. Stats.

(b) City Notification. In addition to the notification required in par. (a) above, the owner or the person causing the discharge of a hazardous substance shall immediately notify the Fire Chief of such spill or discharge.

(2) **DETRIMENTAL SUBSTANCE SPILLS; NOTIFICATION.** Any person who possesses or controls a discharged or spilled material, or causes a discharge or spill, which, although not a "hazardous substance," may be detrimental to the general, safety and welfare of City residents shall immediately notify the Fire Chief. Such detrimental substances may include, without limitations, food products and nitrates.

(3) **CLEANUP REQUIRED.** Any person responsible for a spill or discharge who does not provide the notification required under subs. (1)(b) and (2) above shall be subject to a forfeiture as provided in sec. 25.04 of this Code.

**9.18 TRUANCY AND SCHOOL RULE VIOLATIONS.** (Adopted 10-13-98)

(1) The provisions of Section 118.163 of the Wisconsin Statutes and all dispositions available thereunder except for teen court are adopted.

(2) No person shall contribute to the truancy of another as truancy is defined in Section 118.163 of the Wisconsin Statutes.

(3) No person enrolled as a student in any public or parochial school shall violate any school rule, violation of which could result in suspension or expulsion from school.

(4) It shall be unlawful for any person under the age of 18 to be truant from his home without the consent of his parent or guardian having legal custody.

**9.19 CONDUCT PROHIBITED ON PUBLIC BRIDGES AND DAMS.** No person shall jump, dive or otherwise go into the waters of the Pigeon River in the City from any public bridge, public bridge sidewalk, public bridge superstructure, public bridge understructure, dam spillway, dam pier, dam wing, dam gate or dam superstructure. No person shall crawl out onto any pier of the Pigeon River Dam, climb over or cross any fence located by the Pigeon River Dam, or for any reason be present on the piers by the Pigeon River Dam. This section shall not prohibit any person from walking on the walkway located at the Pigeon River Dam.

**9.191 WATER TRAFFIC UPON THE WATERS OF THE PIGEON POND REGULATED** (Cr. Ord. #609).

(1) **INTENT.** The intent of this section is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interest and the capability of the water resource.

(2) **APPLICABILITY AND ENFORCEMENT.** The provisions of this section shall apply to the waters of the Pigeon Pond which are within the jurisdiction of the City. Provisions of this section shall be enforced by the officers of the City, together with any and all State and County officers authorized by law to enforce the same.

(3) **DEFINITION.** "Slow-no-wake" means the slowest possible speed so as to

maintain steerage.

(4) **SPEED TO BE REASONABLE AND PRUDENT.** No person shall operate a motor boat at a speed greater than is reasonable and prudent under the conditions, having regard for the actual and potential hazards then existing. Speed of a motor boat shall be so controlled as to avoid colliding with any object lawfully in or on the water or with any person, boater other conveyance in or on the water in compliance with legal requirements and exercising due care.

(5) **PROVISIONS APPLICABLE TO PIGEON LAKE.** Notwithstanding sub. (4) above, no person shall operate a motor boat on the above-named waters at a speed greater than the "slow-no-wake" speed, as defined in sub. (3) above.

(6) **MARKER BUOYS.**

(a) All slow-no-wake areas shall be designated by buoys which meet the standards set forth in Wis. Adm. code NR 5.09.

(b) The officer(s) designated by the Council shall be responsible for the maintenance and placement of said buoys.

(7) **POSTING AND FILING OF SECTION.** The Clerk shall:

(a) Submit a copy of this section to the Wisconsin Department of Natural Resources at least 60 days prior to final action of the Council.

(b) Upon final adoption of this section, the Clerk shall post a copy of said section at all public accesses on the water affected.

(8) **PENALTY.** Any person violating this section shall forfeit not more than \$50 for the first offense and shall forfeit not more than \$100 upon conviction of the second offense, a second or subsequent time within one year.

**9.20 OFFENSES UPON SCHOOL PROPERTY.**

(1) No person shall refuse to leave school property upon request by the school principal or a person acting under his direction. A violation of this section shall be considered a trespass.

(2) No person shall bring, or cause to be brought, upon school property any intoxicating liquor, fermented malt beverage or controlled substance, as defined in Ch. 161, Wis. Stats., except and unless with written consent of the school principal.

(3) No person shall make any unnecessary or annoying noises with a motor vehicle by squealing tires, excessive acceleration of engine or by emitting unnecessary and loud exhaust system noises upon school property.

**9.21 TRESPASS PROHIBITED.** No person who enters upon the property of another shall

refuse to leave the property when requested to do so by the owner or other person in charge of the property. This offense shall include, but not be limited to, entry by any person upon the premises of any mercantile establishment, otherwise open to the public, where such person is requested to leave by the owner of the person in charge of such establishment.

**9.22 UNLAWFUL SOLICITATION OF MONEY PROHIBITED.** No person shall solicit, procure or attempt to solicit or procure money or other things of value by falsely pretending or representing to be handicapped, or any charitable organization.

**9.23 DISORDERLY STREET GANG CONDUCT** (Adopted 12-12-95)

(1) **CITY COMMON COUNCIL FINDINGS.**

(a) The City Common Council hereby finds and declares that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this section to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The City Common Council hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances and to participate in the electoral process.

(b) The City Common Council finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by street gangs. The City Common Council finds that there are now several hundred street gangs operating in Wisconsin, and that while their terrorism is most widespread in urban areas, street gangs are spreading into suburban and rural areas of Wisconsin, including Waupaca County.

(c) The City Common Council further finds that street gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the street gang.

(d) Street gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the City Common Council, by enacting this section, to prohibit street gang related activity.

(2) **DEFINITIONS.** For the purpose of this section, "street gang" or "gang" is defined as any ongoing organizations, association in fact or group of 3 or more persons, whether formally or informally organized, or any sub-group or affiliated group thereof, having as one of its activities the commission of criminal or illegal acts, including by way of example only and not in any way limiting or specifying, illegal drug distribution, and whose members individually or collectively engage in or have engaged in a pattern of criminal or illegal acts, and which group frequently, though not necessarily, claim one or more particular geographic territory or "turf" exclusively as its realm of influence and operations.

(3) "COLORS", EMBLEMS OR INSIGNIA PROHIBITED. It shall be unlawful for any person within the City to knowingly use, display or wear colors, emblems or insignia on or about their person in public for the purpose of promoting any street gang activity.

(4) PUBLIC DISPLAY OF MEMBERSHIP IN STREET GANG. It shall be unlawful for any person within the City to knowingly do or make any act, utterance, gesture or display for the purpose of communicating membership of, affiliation with, association with, support of, identification with, sympathy toward or affront or insult toward any street gang, or with actual knowledge that the subject act, utterance, gesture or display is used and recognized as communication of street gang membership, affiliation, association, support, identification, sympathy or affront.

(5) PENALTY. Any person violating this section shall forfeit not less than \$100.00 for the first offense. Any second or subsequent offense shall forfeit not less than \$300.00.

**9.24 GRAFFITI PROHIBITED.** (Adopted 12-12-95)

(1) It shall be unlawful, and is hereby declared a nuisance to place graffiti, or permit graffiti to remain upon any public or private curb stone, flagstone, brick or sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building.

(2) Defined. "Graffiti" is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, picture, outline character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects or structures described above and to which is affixed.

(3) Removal. It shall be the duty of the Chief of Police to serve or cause to be served, a notice upon the owner or party in possession of any such object or structure upon which graffiti is present and to demand the abatement of the nuisance within 10 days. All exterior surfaces shall be kept clean and free of graffiti. Surfaces which have been exposed to graffiti shall be cleaned, painted or in some manner covered, so as to effect the complete removal of the graffiti from that surface and return the surface to its prior condition within 10 days of receipt of the violation notice to the owner unless extenuating circumstances prevent the work from being done, in which case the Chief of Police may give an extension for the removal of graffiti. In the event of failure to clean up and remove the graffiti, a forfeiture of \$25.00 per day shall be imposed for each day after the 10th day following notice that the graffiti remains in existence.

**9.25 PARENTAL RESPONSIBILITY.** (1) Purpose. The purpose of this section is to reduce the incidents of misconduct by juveniles or underage persons by requiring proper supervision on the part of custodial parents.

(2) Definitions. The terms used in this section shall be defined as follows:

(a) CHILD or JUVENILE – A person under the age of 18 years.

- (b) CUSTODIAL PARENT/GUARDIAN – A parent/guardian of a minor child who has custody of said child
- (c) CUSTODY – Either physical custody of a child under a court order under W.S.A. s. 767.23 or 767.24, custody of a child under a stipulation under W.S.A. s. 767.10, or actual physical custody of the child. “Custody” does not include legal custody, as defined under W.S.A. s. 48.02(12), by an agency or person other than a child’s birth or adoptive parent. In determining which parent has custody of a child for purposes of this section, the court shall consider which parent had responsibility for caring for and supervising a child at the time the child’s ordinance violations occurred.
- (3) Prohibitive conduct. Every custodial parent has a duty to properly supervise his or her child. Any custodial parent whose child is convicted twice in a six-month period or has three or more violations of this Code within a twelve-month period is guilty of failing to supervise his or her child. Said time period shall be measured from the date of violation.
- (4) Penalty. The offense described under this section shall be subject to a penalty of not more than \$1,000.

**9.26 PERSONS RESPONSIBLE FOR UNLAWFUL ACTIVITIES ON THEIR PREMISES.** (Adopted 12-12-95) It shall be unlawful for any person or persons who are the owners or occupants of any premises to allow, initiate or maintain any gathering on that premises in which tenants, invitee, visitors or trespassers engage in any unlawful activity. Unlawful activity shall include, but not be limited to, violations or any municipal ordinances or State Statutes and failing to call the police when specifically requested to do so by a person who is being endangered by another person or persons or who is being subjected to harassment or other disorderly conduct. A person will be deemed to have permitted the gathering if that person is on the premises while the unlawful activity is occurring and has not informed the police thereof. Any person violating this section shall be subject to the penalties provided in 25.04.

**9.27 TELECOMMUNICATIONS DEVICES.** (Adopted 12-12-95)

- (1) Any person utilizing a communication device in the commission of an illegal act shall be subject to the penalties provided in 25.04.
- (2) SEIZURE. Any communication device used in the commission of an unlawful act, or used as a means of communication between gang and gang members may be seized by City police officers.

**9.28 FAILURE TO OBEY LAWFUL ORDER: RESISTING AN OFFICER.**

- (1) LAWFUL ORDERS. It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

**9.29 SIGNS ON CITY PROPERTY PROHIBITED.** No person, other than an employee of the City, of an utility, or of a contractor retained by the City or an utility, may attach any sign, placard, display or poster to any utility pole, utility box, City light standard, street sign, City building or other City owned structure, except for community bulletin boards.

**9.291**            **CHILD SAFE ZONES**

A.     Intent.

- (1)     It is the intent of this ordinance not to impose a criminal penalty, but rather to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers.

B.     Definitions. The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

- (1)     Child/Minor. A person under the age of 18 for the purposes of this ordinance.
- (2)     Designated Offender. Any person who has been determined to be likely to be a repeat offender as determined by the Waupaca County Sex Offender Core Committee or has been deemed a SBN (Special Bulletin Notification) by the Wisconsin Department of Correction.

C.     Child Safe Zone.

- (1)     It is unlawful for any designated offender to be physically present within 250 feet of any place where children congregate or are known to congregate, unless they have previously notified the Police Department. Such places shall include, but not be limited to: schools, day care centers, parks, trails, playgrounds and places of worship.
- (2)     Measurement of Distance.
  - (a)     For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of a school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City where children are known to congregate.
- (3)     Penalties. A person who violates this section shall be punished by a forfeiture not exceeding \$200.00 for first offense and not exceeding \$500.00 for a second offense. Each day a person maintains a presence in violation of this Ordinance constitutes a separate violation. The City may also seek equitable relief.

**9.90 UNIFORM CITATION METHOD ADOPTED.**

(1) CREATION. Pursuant to ?66.119, Wis. Stats., the City hereby elects to use the citation method of enforcement of ordinances including those for which a statutory counterpart exists.

(2) CITATION. The citation shall contain the following:

- (a) The name and address of the alleged violator.
  - (b) Factual allegations describing the alleged violation.
  - (c) The time and place of the offense.
  - (d) The section of the ordinance or the municipal code violated.
- (e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.
- (f) The time at which the alleged violator may appear in court.
- (g) A statement which, in essence, informs the alleged violator, as follows:
- 1. A cash deposit of a specified amount may be made which shall be delivered or mailed to the Clerk of Courts prior to the time of the scheduled court appearance.
  - 2. If such a deposit is made, the alleged violator need not appear in court unless he is subsequently summoned.
  - 3. If a cash deposit is made and the alleged violator does not appear in court, he will be deemed to have tendered a pleas of no contest and submitted to a forfeiture and a penalty assessment imposed by §165.87, Wis. Stats., not to exceed the amount of the deposit of, if the court does not accept the pleas of no contest, a summons shall be issued demanding him to appear in court to answer the complaint.
  - 4. If no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture and the penalty assessment imposed by §165.87, Wis. Stats.

(h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under par. (g) above has been read. Such statement shall be sent or brought with the cash deposit.

(i) Such other information as the Council deems necessary.

(3) DEPOSITS.

(a) Each citation issued under this section, except those to which par. (d) below applies, shall specify a cash deposit as set forth in sec. 25.04 of this Code, which consists of the appropriate forfeiture, a penalty assessment of 15% and court costs.

(b) Deposits shall be made in cash, money order or check to the County Clerk of Courts, who shall provide a receipt therefor.

(c) The penalty assessment imposed by §165.87, Wis. Stats., shall be added to all forfeitures hereunder, except where said forfeitures are derived from citations issued for violations of ordinances for which State law controls or for ordinances involving nonmoving traffic violations. Said assessments shall be in an amount determined after deducting the court costs.

(d) The deposit, including costs, pertaining to any minor receiving a citation

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under this section shall in no event exceed the maximum penalties provided in Ch. 48, Wis. stats., plus the penalty assessment imposed by §165.87, Wis. Stats., except that costs and penalties shall not be assessed against minors unless Wisconsin law so provides.

(4) **DEPOSIT SCHEDULE.** Every police officer issuing a citation for any violation of this Code shall indicate on the citation for any violation of this code shall indicate on the citation the amount of the deposit that the alleged violator may make in lieu of court appearance. The amount of the deposit shall be determined in accordance with the city Bond Schedule which is hereby adopted by reference.

(5) **ISSUANCE OF CITATION.**

(a) **Law Enforcement Officers.** Any law enforcement officer may issue citations authorized under this section.

(b) **City Officials.**

1. The Building Inspector, the Director of Public Works, the Fire Chief, the Fire Inspector, the City Health Officer and the Weed Commissioner may issue citations with respect to those sections of this Code which are directly related to their responsibilities.

2. Such City officials may delegate their authority to issue citations to their subordinates.

(6) **PROCEDURE.** Section 66.119(3), Wis. Stats. relating to a violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

(7) **NONEXCLUSIVITY.**

(a) **Other Ordinances.** Adoption of this section does not preclude the council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) **Other Remedies.** The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

### **9.95 ATTEMPT.**

(1) Whoever attempts to violate Sec. 9.940.19(1) Battery, 9.941.12 Interfering With or Failing to Assist in Fire Fighting, 9.941.21 Disarming a Police Officer Prohibited, 9.941.37 Obstruction of emergency Vehicles Prohibited, 9.943.01(1) Criminal Damage to Property to (less than \$200), 9.943.20 Theft (less than \$100), 9.943.50 Shoplifting, 9.946.42 Escape, 9.946.44 Assisting or Permitting Escape, should be subject to the same penalty as though the person had actually committed the offense.

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(2) An attempt to violate an ordinance requires that the actor has an intent to perform acts and attain a result which when accomplished would constitute a violation of the ordinance and that if he does act towards the commission of the violation which demonstrates unequivocally under all the circumstances that he form that intent and would commit the violation except for intervention of another person or some other extraneous factor.

**9.96 PENALTY.** Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in sec. 25.04 of this Code. In addition to any penalty imposed for violation of sec. 9.943.01(1) of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violated sec. 9.943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with 895.35, Wis. Stats.