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CHAPTER 11: OFFENSES AND NUISANCES

11.0100 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE

The statutory provisions describing and defining regulations with respect to crimes against public health and safety, property, sexual morality, government and administration, and peace and order in all sections of the Wisconsin Statutes, as revised, are hereby adopted and by reference made a part of this Chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required to be performed or prohibited by this Chapter. Therefore, if a Marinette City Police Officer has probable cause to believe that an individual has committed a non-felony violation of the above-stated Wisconsin Statutes, in the City of Marinette, Wisconsin, he or she has the discretion to issue a civil citation to said individual such that said individual would be prosecuted for the alleged violation in the Marinette Municipal Court as a civil ordinance violation, rather than refer the matter for criminal prosecution to the Marinette County District Attorney. The penalties prescribed for violation of any of its provisions shall be limited to a forfeiture; said forfeiture shall be levied upon anyone violating any of the provisions of Section 11.0101 of the Municipal Code of the City of Marinette in an amount as found in Section 1.0107 of this Code of Ordinances, together with the costs of prosecution, and in default of the payment of said forfeiture and costs of prosecution shall be imprisoned in the County Jail of the County of Marinette until such forfeiture and costs are paid, but not exceeding ninety (90) days. Any future amendments, revisions, or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code. (Ord. 2014-2283 adopted 5-6-14)

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8-3-06)

11.0200 OFFENSES AGAINST PUBLIC SAFETY AND PEACE

11.0201 DISCHARGING FIREARMS, AIR GUNS AND ARROWS PROHIBITED

- A. No person, except a sheriff, police officer, or their deputies, shall fire or discharge any firearm, rifle, spring, compressed gas or air gun of any description, or tipped arrow, within the City of Marinette. Except that this ordinance shall not apply to discharge of a starting pistol at a bona fide athletic contest.
- B. No person shall, in the territory adjacent to the City, discharge any firearm in such manner that the discharge shall enter or fall within the City.
- C. This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries or archery ranges approved by the Chief of Police.
- D. Firearms may be discharged by the participants in any City approved wildlife abatement program.
- E. An exception to items A-D above, pursuant to 2013 Wisconsin Act 71 is as follows:
 - a. Persons are prohibited from hunting with a bow and arrow or crossbow within 100 yards, from building located on another person's land. This restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within 100 yards of the building; and
 - b. A person who hunts with a bow and arrow or crossbow must discharge the arrow or bolt from the respective weapon toward the ground.
 - c. "Building" means a permanent structure used for human occupancy and includes a manufactured home, as defined in s. 101.91(2).
 - d. "Restriction" means an ordinance, regulation, resolution, or other restriction enacted or adopted by a local governmental unit. (Ordinance 2014-2282 adopted 4-1-14).
 - e. Notwithstanding subparagraphs a-d above, hunting with a bow and arrow or hunting with a crossbow is prohibited in any portion of land that the City of Marinette owns or leases with the exception of Seagull Bar. State Law Reference: Wis. Stats. Sec. 29.038.(2)(b). (Ord. 2015-2307 adopted 1-6-15).

Note: See Section 11.0101 for additional firearms regulations.

11.0202 REGULATING THE POSSESSION, USE AND SALE OF LASER DEVICES

- A. Definition

A laser device is defined as a pointer, flashlight, or other similar device which is capable of emitting a laser light beam onto a person or object.

B. Sale to and Possession by Minors

1. No person under the age of eighteen (18) years may possess a laser device outside of that person's primary residential dwelling.
2. No person or entity may sell a laser device to a person under the age of eighteen (18) years unless the underage person is accompanied by his or her parent.

C. Prohibited Acts
C. No person may do any of the following:

1. Direct the beam of a laser device into another person's eyes or onto any other part of a person's body or apparel.
2. Direct the beam of a laser device on or into a motor vehicle occupied by another person.
3. Direct the beam of a laser device on or into a residence at any time or on or into any other building occupied by another person.

D. Medical Exception

This ordinance shall not apply to any valid medical procedure performed by a licensed health care practitioner.

11.0203 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, except, pursuant to 2013 Wisconsin Act 71:

- a. Persons are prohibited from hunting with a bow and arrow or crossbow within 100 yards, from a building located on another person's land. This restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within the 100 yards of the building; and
- b. A person who hunts with a bow and arrow or crossbow must discharge the arrow or bolt from the respective weapon toward the ground.
- c. "Building" means a permanent structure used for human occupancy and includes a manufactured home, as defined in s. 101.91(2).
- d. "Restriction" means an ordinance, regulation, resolution, or other restriction enacted or adopted by a local government unit. (Ordinance 2014-2281 adopted 4-1-14).
- e. Notwithstanding subparagraphs a-d above, hunting with a bow and arrow or hunting with a crossbow is prohibited in any portion of land that the City of Marinette owns or leases with the exception of Seagull Bar. State Law Reference: Wis. Stats. Sec. 29.038(2)(b). (Ord. 2015-2307 adopted 1-6-15).

11.0204 HARASSING OR OBSCENE TELEPHONE CALLS

Whoever of the following shall be subject to the penalty as provided in this Municipal Code:

- A. Makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent;
- B. Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten, or harass any person at the called number or numbers;
- C. Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
- D. Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
- E. Knowingly permits any telephone under his control to be used for any purpose prohibited by this section;
- F. In conspiracy or concerted action with other persons, makes repeated calls simultaneous calls solely to harass any person at the called number of numbers.

11.0205 SALE AND DISCHARGE OF FIREWORKS RESTRICTED

No person shall sell, expose, or offer for sale, use, keep, discharge, or explode, any fireworks as defined in Wisconsin Statutes Section 167.10(1), unless he shall be authorized by a fireworks user's permit as defined in Marinette Municipal Code Section 5.0217.

11.0206 LOITERING AND OBSTRUCTING STREETS AND SIDEWALKS

It shall be unlawful for any person or persons to congregate, stand, loaf, or loiter or engage in any activity, sport, or exercise in any street, or upon any sidewalk, bridge, crossing, or other public place so as to obstruct the same or to hinder, prevent, or annoy any person or persons passing or attempting or desiring to pass therein or thereon; or to congregate, stand, loaf, or loiter in or in front of any hall, lobby, doorway, passage, or entrance of any public building, bank, theater, public hall, hotel, eating or lodging house, office building, store, shop, office or factory, or other like business house or building of public assemblage so as to obstruct free and unobstructed ingress and egress to every such business building or hinder, prevent, or annoy any person or persons passing along or into or out of such business houses or attempting or desiring to enter into or out of such business houses.

11.0207 LOUD AND UNNECESSARY NOISE PROHIBITED

A. Loud and Unnecessary Noise Prohibited

It shall be unlawful for any person to make, continue, or cause to be made or continued, any loud and unnecessary noise.

B. Types of Loud and Unnecessary Noises

The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

1. Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place in the City for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
2. Radios, phonographs, similar devices. The using, operating, or permitting to be played, used, or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
3. Loudspeakers, amplifiers for advertising. The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
4. Animals, birds. The keeping of any animal or bird which by causing frequent or long continued unnecessary noise.
5. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

6. Construction or repair of buildings. The erection (including excavation), demolition, alteration, or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Director of Public Works shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
7. Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital, or court street.
8. The provisions of this section shall not apply to:
 - (a) Any vehicle of the City while engaged in necessary public business.
 - (b) Excavations or repairs of streets or other public construction by or on behalf of the City, County, State at night when public welfare and convenience renders it impossible to perform such work during the day.
 - (c) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

C. Stationary Noise Limits

1. Maximum Permissible Sound Levels
 - (a) Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line.

Zone	Noise Rating Daytime	Noise Rating Nighttime
Residential	60 db	50 db
Commercial	70 db	70 db
All Other Zones	75 db	75 db

- (b) Ambient noise is the all-encompassing noise associated with a given source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by 5 db in any octave band to be designated excessive.
 - (c) Pure tones and impulsive noises are factors. Five (5) noise rating numbers shall be taken from the table in Subsection "a" above, if the subject noise consists primarily of a pure tone or if it is impulsive in character.
- 2. Construction Noise. Construction equipment in any zone may be operated between the hours of 7:00 a.m. to 7:00 p.m. provided that said equipment does not exceed a maximum sound pressure level of 80 dB(a) measured at the property line of the location at which said equipment is in use.
- 3. Noise in Residential Districts. In Residential Zones, the person in violation of this Section shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.
- 4. Operation of Certain Equipment. Lawnmowers, chainsaws, powered garden equipment, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
- 5. Exemptions. Operation of emergency equipment shall be exempt from this Chapter. Snowblowers not operated on a commercial basis shall be exempt from this Chapter when used to gain access to a City street. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City of the City of Marinette.
- 6. Methods of Measuring Noise.
 - (a) Equipment. Noise measurement shall be made with a sound level meter.
 - (b) Location of Noise Meter. Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.
- 7. Control of Nighttime Noise Emitted From Residential Air Conditioners.

- (a) No person shall install, operate, or use any residential air-conditioner which creates a noise level in a sleeping room in any dwelling unit located on any adjacent premises in the excess of five (5) decibels above the ambient noise level at the location being measured.
 - (b) Upon receiving a complaint, the Police Department will conduct a noise survey through the use of a sound level meter. The sound pressure level should be measured in a sleeping room in the complainants premises with the sound level measuring microphone placed three (3) feet from an open window nearest to the source of the noise and not less than three (3) feet above the floor of the room in which the measurement is made.
8. Appeals. The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Chapter for existing industries.

D. Zone of Quiet

On the south side of the City limits; on the east by the eastern boundary of the highway located on what was formerly the street car tracks from Marinette to Bay Shore Park; on the north by the north line of Lot 2 in Section 17 in Township 30 North, of Range 24 East; and on the west by the western edge of Shore Drive, and including all streets and highways in or bounding the area. Any person who shall create or cause to be created in the zone any loud, unusual, or unnecessary noise or other disturbance shall be guilty of maintaining a public nuisance.

11.0208 PROHIBITED CONDUCT ON BRIDGES

A. Loitering or Defacing Prohibited

No person shall stand, sit, or loiter on any bridge or on its abutments or railings, nor shall any person deface any part of a bridge or its abutments or railings.

B. Swimming From Bridges Prohibited

No person shall dive into or enter the water for the purpose of swimming from any bridge or any bridge pier, pile, approach, or abutment within the City.

11.0209 DISORDERLY CONDUCT

No person shall within the City in any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons; or intentionally cause, provoke or engage in any fight, brawl, riot, or noisy altercation other than a bona fide athletic contest.

11.0210 LOUDSPEAKERS

A. Permit

No person shall use a loudspeaker on the streets of the City unless he first obtains a permit to do so from the Chief of Police.

B. Hours of Operation

The Chief of Police shall not grant a permit to use a loudspeaker before 9:00 a.m. or after 9:00 p.m., nor shall a loudspeaker be permitted to operate in the vicinity of a hospital, church, school, or outdoor public meeting. The Chief of Police may order a reduction in the volume of a loudspeaker on complaint being made to him by a citizen or when he believes such loudspeaker is becoming a nuisance because of the volume, the method in which it is being used, or the location in which it is being operated.

11.0211 OBEDIENCE TO OFFICERS

No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority.

11.0212 GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES

All forms of gambling, lotteries, and fraudulent devices and practices are prohibited within the City. Any peace or police officer of the City is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the City and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

11.0213 LOITERING OF MINORS (CURFEW HOURS)

It shall be unlawful for any person under the age of eighteen (18) years to congregate, loiter, wander, stroll, stand, or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or any public places in the City of Marinette, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 10:00 P.M. and 5:00 A.M. of the following day, official City time, unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.

A. Responsibility of Parents

It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a person under the age of eighteen (18) years to suffer or permit or by inefficient control to allow such person to congregate, loiter, wander, stroll, stand, or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots, or any public places in the City of Marinette between the hours of 10:00 P.M. and 5:00 A.M. of the following day, official City time, unless the said person under the age of eighteen (18) years is accompanied by his or her parent, guardian, or other adult person

having his or her care, custody, or control; provided that any parent, guardian, or other adult person herein who shall have made a missing person notification to the Police Department shall not be considered to have suffered or permitted any person to be in violation of this section.

B. Responsibility of Operators

It shall be unlawful for any person or entity operating places of amusement or entertainment, or any agent, servant, or employee of any person or entity to permit any person under the age of eighteen (18) years to enter or remain in such places of amusement or entertainment during the hours prohibited under this section, unless such person is accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.

C. Responsibility of Hotels, Etc.

It shall be unlawful for any person or entity operating a hotel, motel, lodging, or rooming house, or any agent or servant or employee of such person or entity operating a hotel, motel, lodging, or rooming house, to permit any person under the age of eighteen (18) years to visit, loiter, idle, wander, or stroll in any portion of such hotel, motel, lodging, or rooming house between the hours of 10:00 P.M. and 7:00 A.M. of the following day, official City time; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian, or other adult person having the care, custody, and control of such minor.

D. Penalty; Minor

Any person under the age of eighteen (18) years violating the provisions of this section shall be referred to the proper authorities as provided in Chapter 48 and/or Chapter 938 of the Wisconsin Statutes, as amended.

E. Penalty; Parents, Etc.

Any person or entity convicted of violating any of the provisions of this section shall be subject to the general penalty provisions of Marinette Municipal Code Section 1.0107, as amended.

11.0214 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY PROHIBITED

A. It shall be unlawful for any person or persons to congregate, stand, or be present on property under the care, custody, and control of the School District of Marinette unless on business authorized by the School District.

B. This Section shall not apply to:

1. A student in attendance at a school located on said property and possessing an identification card is required and where location on the premises at the time conforms to the rules and regulations of the school as published in writing and posted at a place of access to the students;

2. Any party other than a student, who is on the premises for conducting business either on behalf of a student or the school district and who registers at the office;
3. Any person transporting a student and who utilizes the drives specified for loading and unloading personnel;
4. Any person utilizing school district property in an orderly manner for recreation and/or business purposes, which does not violate any other State laws, or County or Local ordinances;
5. Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this exception shall apply only to the portion of the premises on which such facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;
6. Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.
 - C. Non-students, students from schools other than the school on the property, or students from a school on the property, who are not in conformance with the published rules and regulations of the particular school shall be considered in violation of this Section.
 - D. The exceptions set forth in subsection (b) shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.
 - E. All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

11.0215 (Repealed by Ordinance 2012-2223 adopted 5-1-2012)

11.0216 POSSESSION OF THC OR MARIJUANA

A. 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. THC means Tetrahydrocannabinols, commonly known as "THC", in any form including tetrahydrocannabinols contained in marijuana, obtained from marijuana or chemically synthesized.

B. Prohibited

It shall be unlawful for any person to possess, deliver, sell, or use marijuana, a marijuana derivative, or THC. This subsection shall include, but not be limited to, those persons who possess, deliver, sell, or use marijuana, a marijuana derivative, or THC in any amount.

C. Penalty

Any person who shall violate any provision of this subsection shall, upon conviction, be subject to a forfeiture as provided in Section 1.0107 of this Code. Second offenses shall be referred to the District Attorney for prosecution in the Circuit Court under applicable Wisconsin Statutes; provided, however, that if the District Attorney refuses to prosecute said second offenses, the offenses may be prosecuted in Municipal Court under this Section of the Municipal Code.

D. Repealed (Ord. 2015-2335 adopted 11-3-15)

11.0217 PROHIBITING SMOKING BY MINORS ON PUBLIC PROPERTY WITHIN FIVE HUNDRED (500) FEET OF MARINETTE HIGH SCHOOL

No person under the age of eighteen (18) years shall carry or possess a lighted cigar, cigarette, pipe, or any other lighted smoking equipment on public property within five hundred (500) feet of the Marinette High School grounds located at 2135 Pierce Avenue, between the hours of 7:00 A.M. and 5:00 P.M.

11.0218 911 EMERGENCY TELEPHONE SYSTEM

A. Prerecorded Messages

No person or entity shall program or cause any telephone equipment to automatically dial the City of Marinette 911 Emergency Telephone System with a prerecorded message upon the happening of a given event or circumstance.

B. Nuisance Calls

No person or entity may place a telephone call to the City of Marinette 911 Emergency Telephone System except in the case of an emergency. "Emergency" is defined as a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

11.0219 OFFICIAL CITY BARRIER DEVICES

A. Definition

A barrier shall be defined as a tape, traffic cone, barricade, police, fire, or other municipal vehicle or other delineator placed by any City officer or employee to prevent access to a section of highway, alley, or sidewalk.

- B. It shall be unlawful for any person, without approval from an authorized City official, to remove, disturb, damage, obstruct, pass over or beyond or otherwise interfere with the effective operation of any barrier.

11.0220 PARENTAL SUPERVISION OF MINOR CHILDREN

A. Purpose

This section is intended to reduce the incidents of misconduct by juveniles by requiring juveniles by requiring proper supervision on the part of custodial parents.

B. Prohibited Conduct

Every custodial parent has the duty to properly supervise his or her child. It shall be unlawful for any custodial parent to fail to properly supervise his or her child. Proof of a child's conviction of a City of Marinette ordinance violation, a violation of a state statute that occurred in the City of Marinette, or any combination thereof twice within a six month period or three or more times within a twelve month period shall be prima facie evidence that the custodial parent of such child failed to properly supervise the child. A child's traffic offenses shall not be considered under this ordinance except for alcohol and drug related offenses, reckless driving, and traffic crimes.

C. Definitions

1. "Child" means a person under the age of eighteen years.
2. "Custodial parent" means a parent of a minor child who has custody of the child, that is, the parent who had responsibility for caring for and supervising the child at the time the child's ordinance violations occurred.
3. "Custody" means either physical custody of a child under a court order under Section 767.23 or 767.24 of the Wisconsin Statutes, custody of a child under a stipulation under 767.10 of the Wisconsin Statutes, or actual physical custody of the child. "Custody" does not include legal custody, as defined under Section 48.02(12), by an agency or a person other than a child's birth or adoptive parent.

D. Defenses

It shall be a defense to the offense of failure to exercise parental supervision if the parent can provide specific evidence of on-going participation in, or recent completion of, parenting classes, family therapy, group counseling or AODA counseling which includes the parent or child in question. It shall be a defense to the offense of failure to exercise parental responsibility if

the parent reported the act(s) under Section 9.05.030(a) to the appropriate authorities.

E. Penalty

Any person found to have violated this section shall be subject to a forfeiture of not more than one thousand dollars (\$1,000.00).

11.0221 DAYTIME CURFEW FOR MINORS DURING SCHOOL HOURS

A. Purpose and Intent

It is the purpose of this ordinance to discourage children of compulsory school age from unauthorized absences and to impose penalties upon those students and also upon their parents or legal guardians. It is the intent of this ordinance to promote the development and welfare of these children by discouraging unauthorized absenteeism and encouraging school attendance. The Marinette Common Council hereby finds that daytime absence constitutes an increased risk to the public safety, health and welfare of the citizens of the City of Marinette.

B. Definitions

1. "Responsible Adult" shall mean a person 18 years of age or older who has the mental competency to fulfill the duty of protecting and caring for the general welfare of a child and who has a written authorization from that child's parent or legal guardian designating the person as a responsible adult, naming the child involved and designating the time period during which the responsible adult shall have control of the child.
2. "Subject to Compulsory School Attendance" shall include any child subject to mandatory school attendance under Wisconsin law in the school district of his residence, or any child found in the City of Marinette who would be subject to mandatory attendance if the child were a resident of the City of Marinette.

C. Offenses

1. No child subject to compulsory school attendance shall be at any place within the City of Marinette, except in attendance at school or at the child's place of residence, during the hours when that child is required to be in attendance at either a public or private school as required by law, unless that child has written proof from school authorities excusing him/her from attending school at that particular time; or the child is accompanied by a parent, legal guardian or responsible adult selected by the parent or legal guardian who supervises the child; or that child is enrolled in a bona fide home schooling program.
2. Parental Violation. Each parent or legal guardian of a child subject to the provisions of this ordinance shall have the duty to prevent that child from violating the provisions of this ordinance and each failure by that parent or guardian to do so is a separate offense.

D. Affirmative Defenses

1. It shall be an affirmative defense to subsections (C)(1) and (C)(2) that the child, at the time of the alleged violation, was not required by law to be in attendance at the school attended by the child.
2. It shall be an affirmative defense to subsection (C)(2) that the parent or legal guardian is a petitioner in a currently pending juvenile court proceeding involving the child or such a proceeding in which the judge has retained ongoing supervision or jurisdiction.
3. It shall be an affirmative defense to subsection (C)(1) and (C)(2) that at the time of the alleged violation the child was employed pursuant to a school sponsored program or was the recipient of a work permit issued by school authorities and the child was actually on the job or traveling to or from the job site or program location.
4. It shall be an affirmative defense to subsections (C)(1) and (C)(2) that the child, at the time of the alleged violation, was enrolled in a bona fide home schooling program.
5. Any party claiming an affirmative defense shall have the duty to prove the same to the same standard of proof required of the plaintiff in prosecuting the action.

E. Penalties

A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a forfeiture not to exceed \$500.00 for an adult and \$50.00 for a child.

11.0222 TRUANCY (All references are to Wisconsin Statutes)

A. Definitions

1. “Truant” has the meaning given in Section 118.163(1)(d) as amended from time to time: “a pupil who is absent from school without an acceptable excuse under sections 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester”.
2. “Habitual Truant” has the meaning given in Section 118.16(1)(a) as amended from time to time: “a pupil who is absent from school without an acceptable excuse under section 118.16(4) and section 118.15 for part or all of 5 or more days on which school is held during a school semester”.
3. “Dropout” has the meaning given in Section 118.153(1)(b) as amended from time to time: “a child who ceased to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under section 118.15(1)(b) to (d) or (3)”.

B. Truancy Prohibited

Pursuant to Section 118.163(1m) as amended from time to time, no person under the age of 18 years may be a truant. The following dispositions are available to Marinette Municipal Court:

1. An order for the person to attend school.
2. A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to section 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

C. Habitual Truancy Prohibited

Pursuant to Section 118.163(2) as amended from time to time, no person under the age of 18 years may be a habitual truant. The following dispositions are available to Marinette Municipal Court:

1. A suspension of the person’s operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.
2. An order for the person to participate in counseling or a supervised work program or other community service work as described in

section 938.34(5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

3. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
4. An order for the person to attend an educational program as described in section 938.34(7d).
5. An order for the department of workforce development to revoke, under section 103.72, a permit under section 103.70 authorizing the employment of the person.
6. An order for the person to be placed in a teen court program as described in section 938.342(1g)(f).
7. An order for the person to attend school.
8. A forfeiture of not more than \$500 plus costs, subject to section 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
10. An order placing the person under formal or informal supervision, as described in section 938.34(2), for up to one year.
11. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

D. Drop Out Prohibited

Pursuant to Section 118.163(2m)(a) no person at least 16 years of age but less than 18 years of age may be a dropout. Regarding any person who meets this test, Marinette Municipal Court may suspend the person's operating privilege until the person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the

department of transportation together with a notice stating the reason for and the duration of the suspension.

11.0223 ESTABLISHING A SMOKE AND TOBACCO FREE POLICY FOR MUNICIPAL BUILDINGS AND VEHICLES

- A. No person shall smoke or use tobacco products in any City owned building or vehicle at any time.
- B. The City shall post uniform signs at every public entrance to all City owned buildings informing the public of this prohibited activity.
- C. Definitions
 - (1) Building means any enclosed indoor area of a structure owned by the City.
 - (2) Smoking means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.
 - (3) Vehicle means any self-propelled, enclosed vehicle owned or leased by the City, including those vehicles contracted for passenger transportation services.

11.0224 DISTURBING NOISE GENERALLY

- A. No person shall make or cause to be made any loud disturbing, fluctuating or unnecessary sounds or noises such as may tend to annoy or disturb a reasonable person.
- B. It shall not be necessary for purposes of this ordinance that noise measurement be made with a sound level meter (Ordinance 2008-2118 adopted 2-5-2008).

11.0225 RADIO OR OTHER ELECTRIC SOUND AMPLIFICATIONN DEVICE PROHIBITED

- A. No person or business may use a radio or other similar electric sound amplification device so that sound emitting from said radio or amplification device is audible under normal conditions from a distance of seventy-five (75) or more feet.
- B. It shall not be necessary for purposes of this ordinance that noise measurement be made with a sound level meter. (Ordinance 2008-2119 adopted 2-5-2008).

11.0226 SEX OFFENDERS

§ 1 PURPOSE:

This Chapter is a regulatory measure aimed at protecting the health and safety of children in Marinette from the risk that convicted sex offenders may reoffend in locations close to schools and day care centers. The City finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children at schools and day care centers.

§ 2 DEFINITIONS:

As used in this Chapter and unless the context otherwise requires:

- A. A “sexually violent offense” shall have the meaning as set forth in Wis. Stat. § 980.01(6), as amended from time to time.
- B. A “crime against children” shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

§940.225(1) First Degree Sexual Assault;

§940.225(2) Second Degree Sexual Assault;

§940.225(3) Third Degree Sexual Assault;

§940.22(2) Sexual Exploitation by Therapist;

§940.30 False Imprisonment-victim was minor and not the offender’s child;

§940.31 Kidnapping-victim was minor and not the offender’s child;

§944.01 Rape (prior statute);

§944.06 Incest;

§944.10 Sexual Intercourse with a Child (prior statute);

§944.11 Indecent Behavior with a Child (prior statute);

§944.12 Enticing Child for Immoral Purposes (prior statute);

§948.02(1) First Degree Sexual Assault of a Child;

§948.02(2) Second Degree Sexual Assault of a Child;

§948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child;

§948.05 Sexual Exploitation of a Child;

§948.055 Causing a Child to View or Listen to Sexual Activity;
§948.06 Incest with a Child;
§948.07 Child Enticement;
§948.075 Use of a Computer to Facilitate a Child Sex Crime;
§948.08 Soliciting a Child for Prostitution;
§948.095 Sexual Assault of a Student by School Instructional Staff;
§948.11(2)(a) or (am) Exposing Child to Harmful Material-felony sections;
§948.12 Possession of Child Pornography;
§948.13 Convicted Child Sex Offender Working with Children;
§948.30 Abduction of Another's Child;
§971.17 Not Guilty by Reason of Mental Disease-of an included offense; and
§975.06 Sex Crimes Law Commitment.

C. "Person" means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children.

§ 3 CHILD SAFETY ZONES.

No person shall enter or be present upon any real property upon which there exists any facility used for or which supports a use of:

- (1) a school for children; and
- (2) a daycare center.

§ 4 CHILD SAFETY ZONE EXCEPTIONS:

A person does not commit a violation of §3 above and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

A. The property supporting an enumerated use under § 3(1) or (2) also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:

- (1) Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.

B. The property supporting an enumerated use under § 3(1) or (2) also supports a polling location in a local, state or federal election, subject to the following conditions:

- (1) The person is eligible to vote;
 - (2) The designated polling place for the person is an enumerated use;
and
 - (3) The person enters the polling place property; proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property immediately after voting.
- C. The property supporting an enumerated use under § 3(1) or (2) also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

§ 5 VIOLATIONS:

If a person violates § 3 above, such person shall be subject to the general penalty provisions set forth under § 1-1-7 of the Municipal Code. In addition, the City may undertake all other legal and equitable remedies to prevent or remove a person who acts in violation of this Chapter.

11.0300 OFFENSES AGAINST PROPERTY

11.0301 DESTRUCTION OF PROPERTY PROHIBITED

- A. No person shall willfully injure or intentionally deface, destroy, or unlawfully remove, take, or meddle with any property of any kind or nature within the City and belonging to the City or its departments, the Marinette School District, or to any private person, without the consent of the owner or proper authority.
- B. Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious, or wanton act of such child; such liability shall not exceed One Thousand Dollars (\$1,000.00).

11.0302 LITTERING PROHIBITED

No person shall throw any glass, refuse, waste, filth, or other litter upon any public property, any private property not owned by that person, or the surface of any public body of water.

11.0303 OPEN CISTERNS, WELLS, BASEMENTS, OR OTHER DANGEROUS EXCAVATIONS PROHIBITED

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

11.0304 ABANDONED REFRIGERATORS 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 ice box, 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 said door or lid, snap lock, or other locking device from said ice box, 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.

11.0305 RETAIL THEFT

- A. Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals, or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession, or the full purchase price may be penalized as provided in Subsection (D).

- B. The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- C. A merchant or merchant's adult employee who has probable cause for believing that a person has violated this Section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- D. Penalty. If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit not more than Two Hundred Dollars (\$200.00).
State Law Reference: Section 943.50, Wis. Stats.

11.0306 STORAGE OF JUNK, ETC., REGULATED

No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks, or other unsightly debris which substantially depreciates property values in the neighborhood except in an enclosure which houses such property from public view, or upon permit issued by the Common Council. The Chief of Police may require by written order any premises violating this Section to be put in compliance within the time specified in such order, and if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

11.0307 ISSUANCE OF WORTHLESS CHECKS

- A. Whoever issues any check or other order for the payment of money less than \$1000.00 which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this Section.
- B. Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
 - 1. Proof that at the time of issuance, the person did not have an account

with the drawee; or

2. Proof that at the time of issuance, person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
 3. Proof that when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- C. This section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.
- D. Any person violating any provisions of this Section shall forfeit not less than Fifty Dollars (\$50.00) if the worthless check is for an amount equal to or less than One Hundred Fifty Dollars (\$150.00) and shall forfeit not less than One Hundred Dollars (\$100.00) if the worthless check is an amount greater than One Hundred Fifty Dollars (\$150.00) and less than One Thousand Dollars (\$1000.00), together with the costs of prosecution, and in default of payment, imprisonment in the Marinette County Jail until forfeiture and costs are paid but not to exceed sixty (60) days.

11.0308 THEFT OF LIBRARY MATERIAL

A. Definitions

For the purposes of this section, certain words and terms are defined as follows:

1. Archives. A place in which public or institutional records are systematically preserved.
2. Library. The Marinette Public Library.
3. Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of a library.

B. Possession Without Consent Prohibited

Whoever intentionally takes and carries away, transfers, conceals, or retains possession of any library material without the consent of a library official, agent, or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code.

C. Concealment

The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent, or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

D. Detention Based on Probable Cause

An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this Section articles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

E. Damaging Material Prohibited

No person shall mar, deface, or in any other way damage or mutilate any library material.

F. Return Demanded

No person shall fail, on demand, to return any library material when such demand has been made in accordance with the rules and regulations duly made and adopted by the Library.

State Law Reference: Section 943.61, Wis. Stats.

11.0309 DAMAGING OR TAMPERING WITH COIN MACHINES

No person shall, without lawful authority, open, remove, or damage any coin machine, coin telephone, or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone, or other vending machine dispensing goods or services, or possesses a drawing, print, or mold of a key or device specifically designed to open or break any coin machine, coin telephone, or other vending machine dispensing goods or services within the limits of the City of Marinette.

11.0310 DAMAGE TO PUBLIC PROPERTY

A. Damaging of Drinking Fountains

All persons are hereby prohibited from breaking or otherwise injuring any bubbler, drinking fountain, or any drinking bubbler, or in any way injuring, soiling, tampering with, or defacing any such bubbler or drinking fountain, or placing dirt, leaves, refuse, or matter of any sort in or upon any such bubbler, drinking fountain or drinking bubbler, in any public park, street, sidewalk or ground, or any public building, schoolhouse, hall, museum, library or branch library, City of Marinette.

B. Damaging of Public Property

All persons are hereby prohibited from breaking or otherwise injuring any tree, shrub, or plant; breaking, soiling, or defacing any fountain, statue, or other ornamental structure; or in any way injuring, soiling, damaging, or defacing any public building or public property in any public park, square, sidewalk, or ground in the City of Marinette, whether the same shall be owned or held in trust by said City held in trust for the use of any district of said City.

C. Breaking of Street Lamps or Windows

No person shall break glass in any street lamps or windows of any building owned or occupied by the City of Marinette.

11.0310 DRAINAGE DITCH

A. Whereas the City of Marinette has at a substantial cost, dug a drainage ditch to drain the large accumulation of water at the low south limits of the lands of the M.A.I.D. Corporation, and whereas, this ditch must be kept free of all debris so as to maintain a free flow to assure constant drainage of this area, no person, firm, or corporation shall throw, drop, dump, or deposit any debris, dirt, junk, refuse, litter, or material of any kind in the drainage ditch above described or do any act of any kind which might tend to impede the flow of said drainage ditch.

B. No person shall trespass on the banks or in the drainage ditch or do any other act designed to disturb or loosen the earth forming the banks of said drainage ditch.

C. Any person, firm, or corporation who shall violate any of the provisions of this Section shall upon conviction thereof forfeit an amount as found in Section 1.0107 of this Code of Ordinances, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed thirty (30) days.

11.0312 PENALTIES

In addition to the general penalty of this Code, or any other penalty imposed for violation of any section of this Chapter, any person who shall cause physical damage to, or destroy any public property, shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 11.0301 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes.

A. RESERVED FOR FUTURE USE

11.0500 OFFENSES INVOLVING ALCOHOLIC BEVERAGES

11.0501 OUTSIDE CONSUMPTION

A. Alcoholic Beverages in Public Areas

It shall be unlawful for any person to sell or serve, or offer to sell or serve, or to consume, or to carry or expose to view, any open container of any alcoholic beverage upon any street, sidewalk, alley, public parking lot, highway, public playground, public park except those listed in Subsection (c), or other public area within the City or on private property without the owner's consent, except that this Section shall not apply during those times one hour before and after a parade authorized by the Common Council. The provisions of this Section may be waived by the Common Council for duly authorized events and/or through a previously granted City of Marinette temporary retail alcoholic beverage license.

B. Definitions

1. As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled, or vinous liquors, liquids, or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated and degerminated grains or sugar, which contain one-half of one percent or more of alcohol by volume and which are fit for use for beverage purposes.
2. As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
3. Alcoholic Beverages Allowed in Certain Public Parks

Subject to all other existing laws, ordinances and rules governing public parks, the following public parks shall be excepted from this ordinance: Boom Landing, City Park, Higley Field Recreation Area, Pederson Ball Park Facility, Red Arrow Park, Sixth Street Slip, Menekaunee Harbor Park and Boat Launch, and Stephenson Island (except during the annual July Logging and Heritage Festival as outlined in MMC 9.0231).

11.0502 SALE TO UNDERAGE AND INTOXICATED PERSONS; PRESENCE ON LICENSED PREMISES; UNDERAGE POSSESSION AND CONSUMPTION; PENALTIES

Wisconsin Statutes Section 125.07, as amended, and statutes cited therein, as amended, are hereby adopted and incorporated in this section by reference. Except that any monetary penalty defined as a fine shall be redefined as a forfeiture and any penalty of imprisonment shall be null and void.

11.0503 OFFENSES INVOLVING ALCOHOLIC BEVERAGES

No person shall drink from, open a container of, or have in his possession an open container of fermented malt beverage or intoxicating liquor while on a commercial quadricycle, as defined at §340.01(8m), Wis. Stats.

(Ord. 2016-2344 adopted 1-5-16)

11.0504 RESERVED FOR FUTURE USE

11.0505 RESERVED FOR FUTURE USE

11.0506 PROOF OF AGE; IDENTIFICATION CARDS; FALSE OR ALTERED IDENTIFICATION CARDS; PENALTIES

Wisconsin Statutes Section 125.08, as amended, and statutes cited therein, as amended, are hereby adopted and incorporated in this section by reference. Except that any monetary penalty defined as a fine shall be redefined as a forfeiture and any penalty of imprisonment shall be null and void.

11.0507 POSSESSION OF ALCOHOLIC BEVERAGES ON GRADE SCHOOL, MIDDLE SCHOOL, AND HIGH SCHOOL GROUNDS PROHIBITED

Wisconsin Statutes Section 125.09(2), as amended, and statutes cited therein, as amended, are hereby adopted and incorporated in this section by reference. (Note: Pursuant to Wisconsin Statutes Section 125.09(2)(c), alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the School Administrator consistent with applicable laws, ordinances, and School Board policies.)

11.0600 PUBLIC NUISANCES

11.0601 NUISANCES PROHIBITED

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

11.0602 PUBLIC NUISANCE DEFINED

A public nuisance is a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:

- A. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
- B. In any way render the public insecure in life or in the use of property;
- C. Greatly offend the public morals or decency;
- D. Unlawfully and substantially interfere with, obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water, or other public way, or the use of public property.

11.0603 NUISANCES AFFECTING HEALTH

The following acts, omissions, places, conditions, and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11.0602:

A. Adulterated Food

All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public.

B. Unburied Carcasses

Carcasses of animals, birds, or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.

C. Breeding Places for Vermin, Etc.

Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal, or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats, or other vermin may breed.

D. Stagnant Water

All stagnant water in which mosquitoes, flies, or other insects can multiply.

E. Privy Vaults and Garbage Cans

Privy vaults and garbage cans which are not fly-tight.

F. Noxious Weeds

All noxious weeds and other tank growth of vegetation. All weeds and grass shall be kept cut to a height of not to exceed eight (8) inches.

G. Water Pollution

The pollution of any public well or cistern, stream, lake, canal, or other body of water by sewage, creamery, or industrial wastes, or other substances.

H. Noxious Odors, Etc.

Any use of property, substances, or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, gases, effluvia, or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the City.

I. Street Pollution

Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk, or public place within the City.

11.0604 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY

The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 11.0602:

A. Disorderly Houses

All disorderly houses, bawdy houses, houses of ill fame, gambling houses, and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse, or gambling.

B. Gambling Devices

All gambling devices and slot machines.

C. Unlicensed Sale of Liquor and Beer

All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by the ordinances of the City.

D. Continuous Violation of City Ordinances

Any place or premises within the City where City ordinances or state laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated.

E. Illegal Drinking

Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the City.

11.0605 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11.0602:

A. Signs, Billboards, Etc

All signs and billboards, awnings, and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, so situated or constructed as to endanger the public safety.

B. Illegal Buildings

All buildings erected, repaired, or altered in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within the City.

C. Unauthorized Traffic Signs

All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign, or signal or which because of its color, location, brilliance, or manner of operation interferes with the effectiveness of any such device, sign, or signal.

D. Obstruction of Intersections

All trees, hedges, billboards, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

E. Tree Limb

All limbs of trees which project over any public sidewalk, street, or other public place and present a safety hazard.

F. Dangerous Trees

All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

G. Fireworks

All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the City.

H. Dilapidated Buildings

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

I. Wires Over Streets

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

J. Noisy Animals or Fowl

The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing, or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the City.

K. Obstructions of Streets: Excavations

All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the City or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.

11.0606 ABATEMENT OF PUBLIC NUISANCES

A. Enforcement

The Chief of Police, the Chief of the Fire Department, the Building Inspector, and Health Officer shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

B. Summary Abatement

If the inspecting officer shall determine that a public nuisance exists within the City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be.

C. Abatement After Notice

If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals, or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such

nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection (b).

D. Other Methods Not Excluded

Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin.

11.0607 COST OF ABATEMENT

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance, or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

11.0608 MUNICIPAL COURT CITATIONS FOR PUBLIC NUISANCES

Any person or entity creating or maintaining a nuisance or any person or entity owning or controlling property where a nuisance occurs, shall, in addition to any other remedies under this chapter, be subject to an immediate Municipal Court citation subject to the general penalty provisions of Section 1.0107.

11.0609 GRAFFITI PROHIBITED AND RELATED ABATEMENT SCHEDULE

1. Definition. When used in this subsection, the term “graffiti” means any inscription, work, figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, dye or other similar substances on buildings, fences, structures and similar places without the express permission of the owner or operator of the property.
2. Public Nuisance. The existence of graffiti on any property within the city is expressly declared to be a public nuisance affecting public health, safety and welfare.
3. Graffiti Prohibited. No owner of any real property within the city shall allow any graffiti to remain upon any structure located on the owner’s property when the graffiti is visible from the street or from other public or private property.
4. Notification of Violation. Whenever the building inspector’s department determines that graffiti on any property within the city is visible from the street or from other public or private property, the department shall issue an order to the owner of the property to abate the graffiti in five (5) days. The building inspector has the discretion to grant reasonable extensions upon request.
5. Compliance. A property owner shall be deemed to have complied with an order to abate graffiti if it is obliterated by a primary paint and matching building paint or by such other means as shall obliterate the graffiti.
6. Failure to Comply. If the property owner fails to comply with the order to abate the graffiti, the building inspector’s department may cause the graffiti to be abated either by city employees or by independent contractor. The city and the independent contractor are expressly authorized to enter upon the property and abate the graffiti upon exterior walls, fences, billboards and other structures abutting public street, property or right of way. The city or private contractor will take all reasonable precautions to avoid causing damage to the property where the graffiti is abated. Any paint used to obliterate graffiti shall be as practicable to the background color or colors in the area where the graffiti is abated. The cost of abating the graffiti shall, pursuant to W.S.A., § 66.0627, be imposed as a special charge against the real property for the cost of the services provided. The building inspector shall keep an accurate account of the expenses thereof and report the same to the city clerk-treasurer, who shall annually prepare a statement of the expense so incurred one each lot or parcel of land. If the special charge is not paid within 30 days, the special charge shall be

deemed delinquent. A delinquent special charge shall be a lien against the property as of the date of delinquency. The delinquent special charge shall be included in the current or next tax roll for collection and settlement under W.S.A., ch. 74.

7. Appeal. Any owner or occupant served an order under subsection 4 may petition the Public Safety Committee for relief of such order. Such petition must be in writing and filed not more than 30 days from the date of service of the order. Such petition must be in writing and filed not more than 30 days from the date of service of the order. The Public Safety Committee shall hold a hearing on such petition and enter any appropriate order. The aggrieved party may be represented at such hearing. Testimony is not required to substantiate the existence of the graffiti. The issues shall be limited to the appropriateness of the order of the Building Inspector.

11.0610 MEDICAL AND RECREATIONAL MARIJUANA

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 *et seq.*, the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need;

WHEREAS, several cities within legalized use of marijuana (for medical and recreational use) have reported negative impacts of marijuana cultivation, processing and distribution activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests;

WHEREAS, based on the experiences of other cities with legalized use, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City due to establishment and operation of marijuana cultivation, processing and distribution activities;

WHEREAS, prior to the effective date of this ordinance, the cultivation, processing and distribution of medical and recreation marijuana is prohibited in the City to the extent of such activities are prohibited by the Federal Controlled Substance Act or other law;

WHEREAS, based on the findings above, the potential establishment of the cultivation, processing and distribution of medical and recreational marijuana in the City of Marinette without an express ban on such activities poses a current and immediate threat to the public health, safety, and welfare in the City due to negative impacts of such activities as described as above;

WHEREAS, the issuance or approval of business licenses, subdivisions, use permits, variances, building permits, or any other applicable entitlement for marijuana cultivation, processing, delivery, and/or distribution will result in the aforementioned threat to public health, safety and welfare; and

WHEREAS, it is in the interest of the City, its residents, and its lawfully permitted businesses that City adopts this ordinance to expressly prohibit the establishment and operation of marijuana cultivation, processing, delivery, and dispensary activities as well as the issuance of any use permit, variance, building permit, or any other entitlement, license, or permit for any such activity, except where the City is preempted by federal or state law from enacting prohibition on any such activity or a prohibition on the issuance of any use permit, variance, building permit, or any other entitlement, license, or permit for any such activity.

Legislative Findings and Statement of Purpose.

A. The City Council finds that the prohibitions on marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries are necessary for the preservation and protection of the public health, safety, and welfare for the City and its community. The City Council's prohibition of such activities is within the authority conferred upon the City Council in its Charter and state law.

B. The City Council finds that this chapter: (1) expresses its intent to prohibit the cultivation of marijuana in the City and to not administer a conditional permit program pursuant to Health & Safety Code section 11.0603 for the cultivation of marijuana in the City; (2) exercises its local authority to enact and enforce local regulations and ordinances, including those regarding the permitting, licensing, or other entitlement of the activities prohibited by this chapter; (3) exercises its police power to enact and enforce regulations for the public benefit, safety, and welfare of the City and its community; and (4) expressly prohibits the delivery of marijuana in the City.

C. Any type of Marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries shall be prohibited activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, marijuana processing, marijuana delivery, or the establishment or operation of a marijuana dispensary in the City, and no person shall otherwise establish or conduct such activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought.

D. The City Council finds that the prohibitions on smoking marijuana in places held open to the public are necessary for the preservation and protection of the public health, safety, and welfare for the City and its community. The City Council's prohibition of such activities is within the authority conferred upon the City Council in its Charter and state law.

Definitions.

For the purposes of this chapter, the following definitions shall apply:

Marijuana means any or all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana.

Marijuana Cultivation means growing, planting, harvesting, drying, curing, grading, trimming, or processing of marijuana.

"Marijuana Processing" means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

Marijuana Dispensary or **Marijuana Dispensaries** means any business, office, store, facility, location, retail storefront or 6 wholesale component of any establishment, cooperative or collective that delivers, whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective.

Smoking means the act of emitting smoke or visible vapor.

Public Nuisance.

Any violation of this chapter is hereby declared to be a public nuisance.

Violations.

Any violation of this chapter shall be punishable as provided in Section 11.0602 of this Code or any successor section thereto.

Severability.

If any section, subsection, sentence or clause of this chapter is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter.