

## TITLE 11

### Offenses and Nuisances

- Chapter 1 State Statutes Adopted
- Chapter 2 Offenses Against Public Safety and Peace
- Chapter 3 Offenses Against Property
- Chapter 4 Offenses Involving Alcoholic Beverages
- Chapter 5 Offenses by Juveniles
- Chapter 6 Public Nuisances

### CHAPTER 1

#### State Statutes Adopted

##### 11-1-1 Offenses Against State Laws Subject to Forfeiture

#### **SEC. 11-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.**

The following statutes 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 the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

- |      |                      |  |
|------|----------------------|--|
| (1)  | Wis. Stat. § 50.58   | Careless Smoking   |
| (2)  | Wis. Stat. § 118.07  | Safety Requirements  |
| (3)  | Wis. Stat. § 118.08  | School Zones; Crossings  |
| (4)  | Wis. Stat. § 118.09  | Safety Zones   |
| (5)  | Wis. Stat. § 118.10  | School Safety Patrols  |
| (6)  | Wis. Stat. § 118.105 | Control of Traffic on School Premises                          |
| (7)  | Wis. Stat. § 118.11  | School Fences  |
| (8)  | Wis. Stat. § 118.123 | Reports and Records  |
| (9)  | Wis. Stat. § 134.65  | Cigarette and Tobacco Products Retailer License                |
| (10) | Wis. Stat. § 134.66  | Restrictions on Sale or Gift of Cigarettes or Tobacco Products |
| (11) | Wis. Stat. § 167.10  | Fireworks Regulated  |
| (12) | Wis. Stat. § 175.25  | Illegal Storage of Junked Vehicles                             |
| (13) | Wis. Stat. § 938.983 | Use of Tobacco Products  |
| (14) | Wis. Stat. § 939.05  | Parties to Crime   |
| (15) | Wis. Stat. § 939.22  | Words and Phrases Defined                                      |

|      |                        |   |
|------|------------------------|---|
| (16) | Wis. Stat. § 940.19    | Battery   |
| (17) | Wis. Stat. § 941.10    | Negligent Handling of Burning Materials                   |
| (18) | Wis. Stat. § 941.12    | Interfering with Fire Fighting                            |
| (19) | Wis. Stat. § 941.13    | False Alarms and Interference with Firefighting           |
| (20) | Wis. Stat. § 941.20(t) | Reckless Use of Weapon                                    |
| (21) | Wis. Stat. § 941.23    | Carrying Concealed Weapon                                 |
| (22) | Wis. Stat. § 941.235   | Carrying a Firearm in a Public Building                   |
| (23) | Wis. Stat. § 941.24    | Possession of Switchblade Knife                           |
| (24) | Wis. Stat. § 941.35    | Emergency Telephone Calls                                 |
| (25) | Wis. Stat. § 941.37    | Obstructing Emergency or Rescue Personnel                 |
| (26) | Wis. Stat. § 942.05    | Opening Letters   |
| (27) | Wis. Stat. § 943.01(l) | Criminal Damage to Property                               |
| (28) | Wis. Stat. § 943.11    | Entry Into Locked Vehicle                                 |
| (29) | Wis. Stat. § 943.125   | Entry Into Locked Coin Box                                |
| (30) | Wis. Stat. § 943.13    | Trespass to Land  |
| (31) | Wis. Stat. § 943.14    | Trespass to Dwellings                                     |
| (32) | Wis. Stat. § 943.145   | Criminal Trespass to a Medical Facility                   |
| (33) | Wis. Stat. § 943.15    | Entry Into Locked Site                                    |
| (34) | Wis. Stat. § 943.20    | Theft   |
| (35) | Wis. Stat. § 943.21    | Fraud on Hotel or Restaurant Keeper or<br>Taxicab         |
| (36) | Wis. Stat. § 943.22    | Cheating Tokens   |
| (37) | Wis. Stat. § 943.34    | Receiving Stolen Property                                 |
| (38) | Wis. Stat. § 943.37    | Alteration of Property Identification Marks               |
| (39) | Wis. Stat. § 943.50    | Retail Theft  |
| (40) | Wis. Stat. § 943.55    | Removal of a Shopping Cart                                |
| (41) | Wis. Stat. § 944.15    | Public Fornication  |
| (42) | Wis. Stat. § 944.20    | Lewd and Lascivious Behavior                              |
| (43) | Wis. Stat. § 945.01    | Definitions Relating to Gambling                          |
| (44) | Wis. Stat. § 945.02    | Gambling  |
| (46) | Wis. Stat. § 945.04    | Permitting Premises to be Used for<br>Commercial Gambling |
| (47) | Wis. Stat. § 946.40    | Refusing to Aid Officer                                   |
| (48) | Wis. Stat. § 946.41    | Resisting or Obstructing Officer                          |
| (49) | Wis. Stat. § 946.42(2) | Escape  |
| (50) | Wis. Stat. § 946.69    | Falsely Assuming to Act as Public Officer or<br>Employee  |
| (51) | Wis. Stat. § 946.70    | Impersonating Peace Officer                               |
| (52) | Wis. Stat. § 946.72    | Tampering with Public Records of Notices                  |
| (53) | Wis. Stat. § 947.01    | Disorderly Conduct  |
| (54) | Wis. Stat. § 947.012   | Unlawful Use of Telephone                                 |
| (55) | Wis. Stat. § 947.0125  | Unlawful Use of Communication Systems                     |
| (56) | Wis. Stat. § 947.013   | Harassment  |
| (57) | Wis. Stat. § 947.047   | Littering Shores  |
| (58) | Wis. Stat. § 947.06    | Unlawful Assemblies                                       |
| (59) | Wis. Stat. § 948.01    | Definitions Relating to Crimes Against Children           |

- (60) Wis. Stat. § 948.61(2)(a) Dangerous Weapons on School Premises
- (61) Wis. Stat. § 948.63 Receiving Property From a Child
- (62) Wis. Stat. § 951.01 Definitions Relating to Crimes Against Animals
- (63) Wis. Stat. § 951.015 Construction and Application
- (64) Wis. Stat. § 951.02 Mistreating Animals
- (65) Wis. Stat. § 951.03 Dog napping and Catnapping
- (66) Wis. Stat. § 951.04 Leading Animal from Motor Vehicle
- (67) Wis. Stat. § 951.05 Transportation of Animals
- (68) Wis. Stat. § 951.06 Use of Poisonous and Controlled Substances
- (69) Wis. Stat. § 951.07 Use of Certain Devices Prohibited
- (70) Wis. Stat. § 951.08 Instigating Fights Between Animals
- (71) Wis. Stat. § 951.09 Shooting at Caged or Staked Animals
- (72) Wis. Stat. § 951.10 Sale of Baby Rabbits, Chicks and Other Fowl
- (73) Wis. Stat. § 951.13 Providing Proper Food and Drink to Confined Animals
- (74) Wis. Stat. § 951.14 Providing Proper Shelter
- (75) Wis. Stat. § 951.15 Animals; Neglected or Abandoned; Police Powers
- (76) Wis. Stat. § 951.16 Investigation of Animal Cruelty Complaints
- (77) Wis. Stat. § 951.17 Reimbursement for Expenses
- (78) Wis. Stat. § 948.45(1) Contributing to Truancy

*(Revised 0/09)*

## CHAPTER 2

### Offenses Against Public Safety and Peace

|         |   |
|---------|---|
| 11-2-1  | Regulation of Firearms, Explosives, and Other Missiles            |
| 11-2-2  | Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited |
| 11-2-3  | Safe Use and Transportation of Firearms and Bows                  |
| 11-2-4  | Sale and Discharge of Fireworks Restricted                        |
| 11-2-5  | Obstructing Streets and Sidewalks Prohibited                      |
| 11-2-6  | Loitering Prohibited  |
| 11-2-7  | Loud and Unnecessary Noise Prohibited                             |
| 11-2-8  | Disorderly Conduct  |
| 11-2-9  | Unauthorized Presence on School Property                          |
| 11-2-10 | Failure to Obey Lawful Order; Resisting An Officer                |
| 11-2-11 | Possession of Controlled Substances                               |
| 11-2-12 | Crossing A Police Line  |
| 11-2-13 | Harassment  |
| 11-2-14 | Unlawful Sheltering Of Minors                                     |
| 11-2-15 | Misuse of the "911" Emergency Telephone Number Prohibited         |
| 11-2-16 | Motorized Scooters Prohibited                                     |
| 11-2-17 | Sexual Offender Restrictions                                      |

#### **SEC. 11-2-1 REGULATION OF FIREARMS, EXPLOSIVES, AND OTHER MISSILES.**

(a) **Discharge of Firearms Regulated.** No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description in his possession or under his control within the City of Plymouth, provided that this Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Common Council, or the firing or discharging of BB guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or guardian, provided the projectile does not leave the premises.

(b) **Hunting Prohibited.** Hunting within the City is prohibited, but the Chief of Police may issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property, and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the City of Plymouth.

(c) **Shooting Into City Limits.** 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.

(d) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council, upon the recommendation of the Chief of Police, where proper safety precautions are taken.

(e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Common Council.

(f) **Throwing or Shooting of Arrows, Stones, or Other Missiles Prohibited.**

(1) It shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot, bow and arrow or other means within six hundred (600) feet of any inhabited dwelling or building or any public park, square or enclosure.

(2) This Subsection shall not apply:

a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.

b. To a supervised archery range approved by the Common Council.

c. Within the interior of a single-family dwelling.

(g) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

**SEC. 11-2-2 CARRYING CONCEALED WEAPONS PROHIBITED. CERTAIN WEAPONS PROHIBITED.**

(a) **Concealed Weapons Prohibited.**

(1) No person shall, within the City, wear or in any manner carry under his clothes or conceal upon or about his person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.

(2) "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in

the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(b) **Concealed Weapons in Public Establishments.** No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and concealed (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.

(c) **Specific Concealed Weapons Prohibited.** No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his person any pistol, revolver, firearm, sling shot, cross knuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the City.

(d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**

(1) No person shall sell, manufacture, purchase, possess, or carry a "Numchuk" (also called a "Nunchaku") or a "Churkin" or a "Sucbai" or similar weapon within the City of Plymouth.

(2) For the purpose of this Section, the following definitions shall

a. "Numchiuk" or "Nunchaku." An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.

b. "Churkin." A round throwing knife consisting of several sharp points protruding from a rounded disc.

c. "Sucbai." A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

(3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

**SEC. 11-2-3 SAFE USE AND TRANSPORTATION OF FIREARMS AND BOWS.**

(a) **Definitions.** In this Section:

- (1) Aircraft has the meaning given under Sec. 114.002(3), Wis. Stats.
- (2) Encased means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
- (3) Firearm means a weapon that acts by force of gunpowder.
- (4) Highway has the meaning given under Sec. 340.01(22), Wis. Stats.
- (5) Motorboat has the meaning given under Sec. 30.50(6), Wis. Stats.
- (6) Roadway has the meaning given under Sec. 340.01(54), Wis. Stats.
- (7) Unloaded means any of the following:
  - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
  - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
  - c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.
- (8) Vehicle has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.

(b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**

- (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

(3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.

(4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.

(5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-7.

(c) **Exceptions.**

(1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:

- a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
- b. A member of the U.S. armed forces.
- c. A member of the National Guard.

(2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.

(3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

**SEC. 11-2-4 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.**

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.



## **SEC. 11-2-5 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.**

(a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City in such a manner as to:

- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
- (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
- (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.

(b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.

(c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
- (2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Plymouth.
- (3) Obstruct. To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
- (4) Sidewalk. Any sidewalk owned or maintained by the City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

## **SEC. 11-2-6 LOITERING PROHIBITED.**

(a) **Loitering Prohibited.** 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 actor takes flight upon the appearance of a police officer, refuses to identify himself, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this Section, afford the actor 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 Section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and, if believed by the peace officer at the time, would have dispelled the alarm.

**(b) Private Property Loitering Prohibited.**

(1) No person shall loiter in or about any private premises or adjacent doorway or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or other person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at anytime other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.

(2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.

(4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

**(c) Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**

(1) Underage Persons and Intoxicants. No underage person shall enter, remain, or loiter in any public or private place where any fermented malt beverage or other alcohol is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(2) Permitted Loitering Permitted. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(d) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

(2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Plymouth.

#### **SEC. 11-2-7 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. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical or electronic device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed, or that persons of ordinary sensitivity owning, using or occupying property in the neighborhood are disturbed or annoyed.

(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, 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 electronic device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or electronic device between the hours of 11:00 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, 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 can only be made by the announcer in person using the natural human voice and without the aid of any mechanical or electronic device.

(4) Animals, birds. The keeping of any animal or bird which causes frequent or long continued unnecessary noise.

(5) Sirens. The sounding of any siren or other warning device, whether mechanical or electronic, except to give notice of a fire or other immediate danger, or upon request of proper City officials.

(6) Exhausts. The discharge into the open air of the exhaust of any internal combustion engine or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) Vehicle and Machine Operation. No person, firm, or corporation shall cause or permit the following between the hours of 11:00 p.m. and 7:00 a.m., so as to disturb the peace and dignity of the neighborhood and community, and reasonable persons of ordinary sensitivity, except in case of an emergency:

a. The operation of off-road vehicles for the purpose of competitive events. All such vehicles shall have their engines turned off during such times.

b. The operation of vehicles, machines, or tools used for construction or maintenance, including the construction, demolition, alteration, or repair of any building, or the excavation of streets and highways.

- c. The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.
  - d. The use of lawn mowers, leaf blowers, and similar devices whether powered by an internal combustion engine, battery, or electricity.
- (8) Yelling, shouting, hooting, whistling, or singing. The yelling, shouting, hooting, whistling, or singing in a loud and disturbing manner in residential or noise sensitive areas such as schools, nursing homes, churches, courts, and similar institutions.
- (9) Exceptions. 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 on behalf of the City, County, or State when public welfare and convenience renders it impossible to perform such work during non-prohibited hours.
  - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
  - d. Any event or gathering attended by the general public, whether held or conducted upon private or public premises, upon the expressed consent of the Common Council, and upon such conditions as may be imposed thereby.
  - e. The reasonable use of power-driven snow removal equipment.
  - f. The collection of solid waste by the City's contract waste hauler.
  - g. Any specific instance or occasion determined appropriate by the Common Council.

**SEC. 11-2-8 DISORDERLY CONDUCT.**

- (a) **Disorderly Conduct Prohibited.** No person within the City of Plymouth shall:

- (1) In any public or private place engage in violent, noisy, riotous, 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 annoy or disturb any other person;
- (2) Intentionally cause, provoke, or engage in any fight, brawl, riot, or noisy altercation;
- (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
- (4) Indecently expose his or her person;
- (5) Be in or upon any business or private structure, private vehicle, or upon any private grounds or premises without the consent of the owner or tenant having the right to exclusive possession of said premises pursuant to Wisconsin Statutes § 704.05 (2).

*(Revised 07/09)*

(b) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery, or other public area within the City, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways, or elevators of public or commercial buildings.

#### **SEC. 11-2-9 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.**

(a) **Unauthorized Presence.**

(1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the City or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.

(2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal in addition to violating Subsection (a)(1), shall be guilty of trespass.

(3) "Authorized person" shall include:

- a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;
- b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
- c. Any person utilizing a designated area for attending an athletic or other organized school event.

(b) **Disorderly Conduct on Public School Property.**

(1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.

(3) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."

(4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a City summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.

(c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the City of Plymouth or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.

(d) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

(1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

(2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Plymouth.

#### **SEC. 11-2-10 FAILURE TO OBEY LAWFUL ORDER: RESISTING AN OFFICER.**

(a) **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.

(b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any police officer or member of the Police Department or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his duty, or to in any way interfere with or hinder or prevent him from discharging his duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his official capacity in carrying out his duties.

#### **SEC. 11-2-11 POSSESSION AND MANUFACTURING OFFENSES.**

(a) **Marijuana Possession.** The provisions of Wis. Stat. § 66.0107(1)(bm), as amended from time to time, regarding the possession of twenty-five (25) grams or less of marijuana as defined in Wis. Stat. § 961.01(14), and subject to the exceptions in Wis. Stat. § 961.41(3g)(intro), shall be punishable as a violation of this Code, except that any person charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of marijuana in the State of Wisconsin, shall not be charged under this paragraph.

(b) **Drug Paraphernalia.** Pursuant to Wis. Stat. §§ 66.0107 and 961.577, the following statutes regarding possession of drug paraphernalia, as they are amended from time to time, and exclusive of penalties, are hereby adopted by



reference and made offenses punishable as a violation of this Code: Wis. Stat. § 961.573(1) and (2).

(c) **Manufacture or Delivery of Drug Paraphernalia.** Pursuant to Wis. Stat. §§ 66.0107 and 961.577, the following statutes regarding delivery of drug paraphernalia as they are amended from time to time, and exclusive of penalties, are hereby adopted by reference and made offenses punishable as a violation of this Code: Wis. Stat. § 961.574(1) and (2).

(d) **Delivery of Drug Paraphernalia to a Minor.** Pursuant to Wis. Stat. §§ 66.0107 and 961.577, the following statutes regarding delivery of drug paraphernalia to a minor, as they are amended from time to time, and exclusive of penalties, are hereby adopted by reference and made offenses punishable as a violation of this Code: Wis. Stat. § 961.575(1) and (2).

(e) **Penalties.** A person age 17 or older who violates this Section is subject to a forfeiture of not less than \$250 nor more than \$1,000. Juveniles under the age of 17 are subject to a forfeiture of not less than \$25 nor more than \$500 in addition to the other penalties provided in Wis. Stat. § 938.344(2e), and any amendments thereto.

#### **SEC. 11-2-12 CROSSING A POLICE LINE.**

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.

#### **SEC. 11-2-13 HARASSMENT.**

No person, with intent to harass or intimidate another person, shall do any of the following: each instance shall be considered a separate violation:

(a) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.

(b) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

#### **SEC. 11-2-14 UNLAWFUL SHELTERING OF MINORS.**

(a) No person shall, unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the Plymouth Police Department of the existence of a minor described in subsection (1) herein on premises owned or operated by or under the control of such persons.

(1) By any means conceal or shelter, or assist in the concealing or sheltering of any minor under the age of eighteen (18) years while the minor is under the legal custody of the parents or legal guardian and while the minor is on report with any law enforcement agency as a "missing person", a "runaway" or a "wanted" person; or

(2) Supply false information to or obstruct any law enforcement officer in the performance of his duty to locate or to take into custody any minor described in this section.

(b) Any person violating any provision of this section shall be subject to a forfeiture of not less than \$25 nor more than \$200 together with the cost of prosecution and in default of payment thereof, imprisonment in the county jail until such forfeiture and costs are paid but not to exceed thirty (30) days.

**SEC. 11-2-15 MISUSE OF THE "911" EMERGENCY TELEPHONE NUMBER PROHIBITED.**

(a) No person shall dial the telephone number "911" and knowingly do any of the following:

(1) use the "911" system for any purpose that is not an emergency;

(2) report a fact situation that does not exist; or

(3) hang up without explanation.

For the purposes of this section, "emergency" shall mean a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

**SEC. 11-2-16 MOTORIZED SCOOTERS PROHIBITED.**

No person shall operate a motorized scooter upon the streets, sidewalks, or any other public right-of-way in the City of Plymouth.

A "motorized scooter" is defined as a vehicle that is designed to be stood or sat upon by the operator and that has two small-diameter wheels in tandem, upright t-shaped handlebars, and is powered by an internal combustion engine or electric motor that is capable of propelling the device with or without human propulsion, and not capable of being registered or titled.

**SEC. 11-2-17 SEXUAL OFFENDER RESTRICTIONS.**

(a) **Findings and Intent.**

(1) This ordinance is a regulatory measure aimed at protecting the health and safety of children in the City of Plymouth from the risk that sexual offenders convicted of an offense against a child may re-offend in locations close to where children congregate. Given the high rate of recidivism for sexual offenders, and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places. Therefore, the City finds and declares that sexual offenders are a serious threat to the public safety of children if regulatory measures are not in place that prohibit their presence in specified areas designated as places children commonly congregate. The City of Plymouth finds and declares that in addition to schools and daycare centers, children congregate or play at child-oriented facilities, such as parks and playgrounds.

(2) It is not the intent of this ordinance 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 children of the City by prohibiting convicted sexual offenders from residing, loitering or being present in specified areas around locations where children regularly congregate in concentrated numbers. It is the further intent of this ordinance to recognize that convicted sexual offenders must reenter the community, and the City of Plymouth hereby accepts that it has a responsibility to convicted sexual offenders and the surrounding area municipalities to ensure that, in addition to promoting regulatory measures aimed at protecting children, its regulatory measures are not aimed at prohibiting convicted sexual offenders from being part of this society.

(3) Any resident seeking information on the location of a convicted sexual offender's residence may access the Wisconsin Sex Offender Registry online. The current website address is available from the City of Plymouth Police Department. The Registry provides valuable information on how to protect against acts of sexual violence.

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

(1) **Child** means a person under the age of sixteen (16) for the purposes of this section.

(2) **Designated Offender** means any person who is required to register under Wis. Stat. §301.45 and is under court ordered supervision by the Wisconsin Department of Corrections for any sexual offense against a child, unless the person is under the age of eighteen (18) at the time of the offense and the offender was not tried and convicted of the

offense as an adult. This ordinance does not apply to those offenders exempted pursuant to Wis Stat. § 980.135.

(3) **Loitering** means, whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

(4) **Minor** means a person under the age of seventeen (17).

(5) **Zones**

a. **Restricted Zones:** Certain areas that are designated by the City as areas children congregate, including, but not limited to, schools, parks, playgrounds, licensed day care centers, or any other place designated by the City as a place where children are known to congregate. Restricted Zones will not expand beyond the real estate parcel or parcel(s) upon which the building, park or establishment is located that instigated the City's designation of such Restricted Zone, but will include contiguous parcels used for ancillary purposes, such as an athletic field located adjacent to a school.

b. **Loiter Free Zones:** The 200-foot radius surrounding all Restricted Zones.

c. **Restricted Zone Maps:** An official map, maintained by the City, showing Restricted Zones designated in Red and Loiter Free Zones designated in Yellow (the "Restricted Zone Map"). The City shall update the Restricted Zone Map at least annually to reflect any changes in the location of Restricted Zones and Loiter Free Zones. Restricted Zone Maps will be available at the City Clerk's office and on the City's official web site.

(6) **Permanent Residence** means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

(7) **Temporary Residence** means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address or place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(c) **Prohibited Location and/or Acts.**

(1) Restricted Zones:

a. **Restricted Zone Restrictions:** It is unlawful for any Designated Offender to be physically present within a Restricted Zone under any of the following circumstances:

1. When children are present or are reasonably presumed or known to be present; or
2. Monday through Friday, in a school or day care center Restricted Zone and between 7:00 a.m. and 11:00 p.m.; or
3. In a park or playground Restricted Zone and between 7:00 a.m. and 11:00 p.m.

b. **Restricted Zone Restriction Exceptions:** A Designated Offender may be physically present on any day or time within a Restricted Zone if all of the following are present:

1. The Designated Offender has legitimate or official business, which is determined by the reasonable person standard; and
2. The Designated Offender is accompanied by or is in the presence of another adult who is not a Designated Offender.
3. This restriction is not intended to impede normal community activities such as the following, which are illustrative only and not totally inclusive:
  - aa. Attendance at church or religious services or functions, for worship, education, and fellowship.
  - bb. Normal use of public facilities such as adult library, recreation and education areas, but excludes areas which are primarily frequented or used by children.
  - cc. Commercial and business establishments frequented by the general public but not primarily by children unaccompanied by adults.

(2) **Loiter-Free Zones:** It is unlawful for a Designated Offender to loiter within a Restricted Zone or Loiter-Free Zone.

(3) Holiday Prohibition: It is unlawful for any Designated Offender to participate in a holiday event involving children under sixteen (16) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the Designated Offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.

(d) Penalty. A person who violates this ordinance shall be punished by a forfeiture not exceeding \$1,000.00, together with the actual costs of prosecution.

(e) Severability. The provisions of this ordinance shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected.

(f) Sexual Offender and Sexual Predator Residence; Prohibition; Exceptions.

(1) Prohibited Location Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1,500 feet of any school, licensed day care center, park, recreational trail, playground, or place of worship.

(2) Measurement of Distance.

a. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, recreational trail, playground, or place of worship.

b. The City Clerk/Treasurer shall prepare an official map showing prohibited locations as defined by this Section. The City Clerk/Treasurer shall maintain the map on the file at the City Hall and update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.

(3) Exceptions. A designated offender residing within a prohibited area as described in Section (f)(1) does not commit a violation of this Section if any of the following apply:

a. The person established the permanent residence or temporary residence and reported and registered the residence

pursuant to Wis Stat. § 301.45 before the effective date of this ordinance.

b. The school, licensed day care center, park, recreational trail, or playground within 1,500 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.

c. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse or children, provided that such parent, grandparent, sibling, spouse or child established the residence at least two (2) years before the designated offender established residence at the location.

(g) Original Domicile Restriction. No person who has been convicted of a sexually violent offense or a crime against a child shall be permitted to reside in the City of Plymouth, unless such person was domiciled in the city at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense or crime against a child, except as allowed in subsection (f)(3).

(h) Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.

(1) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this article, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in Section (e)(1) and not subject to an exception set forth in Section (e)(3).

(2) A property owner's failure to comply with this Section shall constitute a violation of this Ordinance and shall subject the property owner to the penalties set forth in Section (d).

(i) Appeal. The above 1,500-foot requirement may be waived upon approval of the Public Safety Committee through appeal by the affected party. Such appeal shall be made in writing to the Clerk's Office who shall forward the request to the Public Safety Committee, which shall receive reports from the City of Plymouth Police Department on such appeal. The Public Safety Committee shall convene and consider the public interest, as well as the affected party's presentation and concerns. After deliberation, the Public Safety Committee shall forward its decision in writing via the minutes or otherwise to the City of Plymouth

Chief of Police for his information and action. A written copy of the decision shall be provided to the affected party.

(j) Notification to Property Owners. The Chief of Police may provide notice, pursuant to Wis. Stat. § 301.46(2)5., to all owners of residential real estate located within 300 feet of a newly registered address of a registered sex offender if in the Police Chief's discretion providing that information is necessary to protect the public.

*(Adopted 05/09)*



## CHAPTER 3

### Offenses Against Property

|         |   |
|---------|---|
| 11-3-1  | Destruction or Theft of Property Prohibited           |
| 11-3-2  | Littering Prohibited                                  |
| 11-3-3  | Abandoned Refrigerators Prohibited                    |
| 11-3-4  | Theft of Library Material                             |
| 11-3-5  | Cemetery Regulations                                  |
| 11-3-6  | Damage to Public Property                             |
| 11-3-7  | Retail Theft  |
| 11-3-8  | Issuance of Worthless Checks                          |
| 11-3-9  | Trespass to A Dwelling or Land                        |
| 11-3-10 | Smoking Prohibited                                    |
| 11-3-11 | Theft Prohibited                                      |
| 11-3-12 | Penalties   |
| 11-3-13 | Damage to or Graffiti on Religious and Other Property |

#### **SEC. 11-3-1 DESTRUCTION OR THEFT OF PROPERTY PROHIBITED.**

(a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the City of Plymouth, Plymouth School District, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the City without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed may be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.

(b) **Parental Liability.** Pursuant to Wis. Stat. § 895.035, 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 be as prescribed in the Wisconsin Statutes.

(c) **Theft of Property.** No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without that other person's consent and with intent to deprive the owner permanently of possession of such property.

#### **SEC. 11-3-2 LITTERING PROHIBITED.**

(a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks, or other property of the City of Plymouth, or upon property within the City owned by the

School District or any private person, or upon the surface of any body of water within the City.

(b) **Litter From Conduct of Commercial Enterprise.**

(1) Scope. The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley, or other public way.

(2) Litter to be cleaned up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley, or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

(3) Litter Picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation, or association that did the littering. If such sum is not promptly paid, steps shall be taken with the advice of the City Attorney's office to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause, or permit to be deposited, placed, or parked any vegetation grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment, or object upon any street, sidewalk, or public property without authorization of the Common Council or Director of Public Works pursuant to the provisions of this Code of Ordinances or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes, or permits to be deposited, placed, or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(d) **Handbills.**

(1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the City except by being handed to the recipient, placed on the porch, stoop, or entrance way of the building

or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered, or in any way causing litter.

(2) Papers in Public Places Prohibited. It shall be unlawful to leave any handbills, advertising material, or newspapers unattended in any street, alley, public building, or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

### **SEC. 11-3-3 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.

### **SEC. 11-3-4 THEFT OF LIBRARY MATERIALS.**

(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. Any public library, deposit site, library of an educational or historical organization or society or museum, and specifically the public libraries within the City of Plymouth and school libraries.

(3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, computer software, 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 documents, written or printed materials, regardless of physical form of 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. The failure

to return library material after its proper return date, after written notice from the library and City Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.

(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 had 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 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 law enforcement 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 law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or 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.

(e) **Damaging Material Prohibited.** No person shall mar, deface, or in any other way damage or mutilate any book, periodical, pamphlet, picture, or other article or property belonging to or in charge of the library. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1-1-7.

(f) **Return Demanded.** No person shall fail, on demand, to return any book periodical, pamphlet, picture, or other articles or property belonging to or in charge of the Plymouth Public Library according to the rules or regulations duly made and adopted by the Library Board, and no person shall remove from the library any book, periodical, pamphlet, picture, or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this Subsection shall be subject to the penalties as set forth in Section 1-1-7.

State Law Reference: Section 943.61, Wis. Stats.

## **SEC. 11-3-5 CEMETERY REGULATIONS.**

(a) **Purpose and Definition.** In order to protect cemetery areas within the City from injury, damage, or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment, and structures, both privately- and publicly-owned, which are located within the City of Plymouth.

(b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns, or other objects on cemetery property. Placements of any such plantings, containers, or objects shall be in accordance with established regulations of the cemetery property owner.

(c) **Specific Regulations.**

(1) Disturbing Cemetery Property. No person shall cut, remove, damage, or carry away any flowers, plants, vines, shrubs, or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the owner's consent or any cemetery employee or representative official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark, or damage in any marker any cemetery markers, headstones, monuments, fences, or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns, or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.

(2) Protection of Cemetery Property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure, or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove, or in any manner injure, deface, write upon, or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign, or other property within any cemetery. No picnics, parties, or similar gatherings are permitted.

(3) Motor Vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway

operation of a motorized vehicle on cemetery property without the owner's consent.

(4) Speed Limit. No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.

(5) Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.

(6) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth, or other material in any cemetery without the owner's consent.

(7) Pets. Pets, including animals of any species, and horses are prohibited in any cemetery.

(8) Sound Devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.

(9) Authorized Notices. No person shall post, paste, fasten, paint, or attach any placard, bill, notice, sign or advertising matter upon any structure, tree, or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface, or damage in any manner any official sign or notice posted in any cemetery.

(10) Loitering Prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.

(11) Alcoholic Beverages Prohibited. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the City unless the property is specifically named as being part of a licensed premises.

(12) Play Vehicles Prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle, or toy vehicle upon which a person may ride.

(13) Presence After Hours Prohibited. No person shall be present upon any cemetery property without the owner's consent during those hours when the cemetery is not open to the public. (Open hours: 8:00 a.m. to 9:00 p.m.)

Cross Reference: Title 8, Chapter 4.

#### **SEC. 11-3-6 DAMAGE TO PUBLIC PROPERTY.**

(a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile, or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage, or deface any public building, sidewalk, or other public property in the City of Plymouth.

(b) **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.

(c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of the Manager of the Utilities Commission, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

#### **SEC. 11-3-7 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 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 telephone 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.

State Law Reference: Section 943.50, Wis. Stats.

### **SEC. 11-3-8 ISSUANCE OF WORTHLESS CHECKS.**

(a) Whoever issues any check or other order for the payment of money less than Five Hundred Dollars (\$500.00) 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, the 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.

### **SEC. 11-3-9 TRESPASS TO A DWELLING OR LAND.**

(a) **Trespass to Land.** No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.

(b) **Trespass to Dwelling.** No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

### **SEC. 11-3-10 SMOKING PROHIBITED.**



(a) **Retail Stores.** No person shall smoke tobacco in any form in any retail store in the City of Plymouth, except only areas of stores that are designated to permit smoking.

(b) **Signs to be Posted.** All operators of retail stores shall post signs calling attention to this Section. Shall any operator of a retail store desire to set aside an area where smoking is permitted, he shall first secure the permission of the Fire Chief of the City of Plymouth.

(c) **Plymouth School District Premises.** No person shall use tobacco products on any premises owned or rented by, or under the control of, the Plymouth Joint School District. The school board may allow the use of tobacco products on premises owned by the District and rented to another for non-educational purposes, provided however, that said school board shall cause notice of such exception to be given to the City Clerk and to the Plymouth Police Department not less than fifteen (15) days in advance of such determination of allowance by said board.

#### **SEC. 11-3-11 THEFT PROHIBITED.**

(a) Whoever does any of the following shall be guilty of theft:

(1) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property.

(2) By virtue of his office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals or retains possession of such money, security, instrument, paper or writing without the, owner's consent, contrary to his authority, and with intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his possession or custody by virtue of his office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his own use within the meaning of this paragraph.

(3) Having a legal interest in movable property, intentionally and without consent, takes such property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of such property.

(4) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.

(5) Intentionally fails to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement, within ten (10) days after the lease or rental agreement has expired.

(b) Definitions in this Section:

(1) Property means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a chose in action or other intangible rights.

(2) Movable Property is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights, and things growing on, affixed to or found in land.

(3) Value means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

(4) Property of Another includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are spouses.

**SEC. 11-3-12 PENALTIES.**

(a) **Enforcement.**

(1) Penalties. In addition to the general penalty of this Code in Section 1-1-7 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 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's Office in the interest of justice.

(2) Stipulation of Guilt or No Contest. Stipulations of guilt or no contest may be made by persons arrested for violations of the ordinances contained in this Chapter in accordance with Wis. Stat. § 66.0114. Stipulations shall conform to the form contained on the Uniform Ordinance Citation. Stipulations may be accepted by the Police Department.

(3) Deposits. Any person stipulating guilt or no contest under Subsection (2) shall deposit a forfeited penalty as provided in a schedule established by the Chief of Police and approved by the Common Council. Deposits may be brought or mailed to the office of the Police Department as directed by the arresting officer.

(b) **Attempt.**

(1) Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the City of Plymouth may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.

(2) An attempt to commit an act prohibited by the ordinances in Title 11 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

(c) **Parties to Acts Prohibited in Title 11.**

(1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances is a principle and may be charged with and convicted of the commission of said act although he did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other act prohibited by these ordinances.

(2) A person is concerned in the commission of an act prohibited by these ordinances if he:

- a. Directly commits the act; or
- b. Intentionally aids and abets the commission of it; or
- c. Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such a party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the act be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

**SEC.11-3-1 DAMAGE TO OR GRAFFITI ON RELIGIOUS AND OTHER PROPERTY.**

(a) No person shall cause damage to, mark, draw or write with ink or another substance on, or etch into any physical property of another without the person's consent and with knowledge of the character of the property:

- (1) Any church, synagogue or other building, structure or place primarily used for religious worship or another religious purpose.
- (2) Any cemetery, mortuary, or other facility used for burial or memorializing the dead.
- (3) Any school, educational facility, or community center publicly identified as associated with a group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry or by an institution of any such group.
- (4) Any building or item of personal property belonging to another, and not the property of the perpetrator.
- (5) Any personal property contained in any property under subsections (a) to (c) if the personal property has particular significance or value to any group of persons of a particular race, religion, color, disability, sexual orientation, national origin or ancestry and the actor knows the personal property has particular significance or value to that group.

## CHAPTER 4

### Offenses Involving Alcoholic Beverages

- 11-4-1 Outside Consumption
- 11-4-2 Sale to Underage or Intoxicated Persons Restricted
- 11-4-3 Underage Persons' Presence in Places of Sale; Penalty
- 11-4-4 Underage Persons; Prohibitions; Penalties
- 11-4-5 Defense of Sellers
- 11-4-6 Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards
- 11-4-7 Possession of Alcohol Beverages on School Grounds
- 11-4-8 Adult Permitting or Encouraging Underage Violation
- 11-4-9 Nude Dancing in Licensed Establishments Prohibited
- 11-4-10 After Hours Presence/Consumption Prohibited

#### **SEC. 11-4-1 OUTSIDE CONSUMPTION.**

##### **(a) Alcoholic Beverages in Public Areas.**

(1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City of Plymouth or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume, carry for purpose of immediate consumption, or have in his possession any open container containing an alcoholic beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the City except as licensed premises.

(2) Private Property Held Out For Public Use. It shall be unlawful for any person to possess an open container with an alcoholic beverage or consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.

##### **(3) Leaving Licensed Premises With Open Container.**

a. It shall be unlawful for any licensee, permittee, or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.

b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.

(4) Parks. Possession or consumption of any alcohol beverage at any time is prohibited in any of the following parks:

- a. Huson Park.
- b. Meyer's Nature Park.

(5) Exceptions.

a. The provisions of this Section may be waived by the Common Council for duly authorized events.

b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.

(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 or degerminated grains or sugar which contain one-half (1/2) of one percent (1%) 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) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7-2-16.

## **SEC. 11-4-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.**

(a) **Sales of Alcohol Beverages to Underage Persons.**

(1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking

age, or procure for, sell, dispense, or give away any intoxicating liquor to any underage person.

(2) No license or permittee may sell, vend, deal, or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

(b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:

(1) Not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or

(2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.

(3) In addition to the forfeitures provided in Subsections (1) and (2) above, the Common Council shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Wis. Stat. § 125.07(l)(b)3.

(c) **Sale of Alcohol Beverages to Intoxicated Persons.**

(1) No person may procure for, sell, dispense, or give away alcohol beverages to a person who is intoxicated.

(2) No licensee or permittee may sell, vend, deal, or traffic in alcohol beverages to or with a person who is intoxicated.

(d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Wis. Stat. § 125.07.

**SEC. 11-4-3 UNDERAGE PERSONS PRESENCE IN PLACES OF SALE; PENALTY.**

(a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who as attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages

has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

(1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.

(2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

(3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities as defined in Wis. Stat. § 125.51(5)(b)1.d, which are owned by a county or municipality.

(4) Ski chalets, golf clubhouses, and private tennis clubs.

(5) Premises operated under both a Class "B" fermented malt beverage or "Class B" alcohol beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.

(6) An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market as defined in Wis. Stat. § 125.32(4)(b)1, if the person does not enter or remain in a room where alcohol beverages are sold or furnished.

(7) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. An underage person may enter and remain on Class "B" alcoholic beverage or "Class B" fermented malt beverage premises under this Subsection only if the municipality which issued the Class "B" fermented malt beverage or "Class B" alcoholic beverage license adopts an ordinance permitting underage persons to enter and



remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" alcoholic beverage or "Class B" fermented malt beverage licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

#### **SEC. 11-4-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.**

(a) Any underage person who does any of the following is guilty of a violation:

- (1) Procures or attempts to procure alcohol beverages.
- (2) Knowingly possesses or consumes intoxicating liquor.
- (3) Enters or is on licensed premises in violation of Section 11-4-3(a).
- (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (5) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information.
- (6) Makes, alters or duplicates an official identification card.
- (7) Presents false information to an issuing officer in applying for an official identification.
- (8) Intentionally carries an identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the documentation is false.
- (9) Provides to another underage person an official identification card or other documentation purporting to show that the other underage person

has attained the legal drinking age, with knowledge that the documentation is false.

(b) Any underage person not accompanied by his or her parent, guardian, or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.

(c) Any person violating Subsections (a) or (b) is subject to the following penalties:

(1) For a first violation, a forfeiture of not more than One Hundred Dollars (\$100.00) suspension of the person's operating privileges provided under Wis. Stat. § 343.30(6)(b) 1, participation in a supervised work program under Subsection (d) or any combination of these penalties.

(2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Wis. Stat. § 343.30(6)(b)2 participation in a supervised work program under Subsection (d), or any combination of these penalties.

(3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not more than Three Hundred Dollars (\$300.00), revocation of the person's operating privilege under Wis. Stat. § 343.30(6)(b)3, participation in a supervised work program under Subsection (d) or any combination of these penalties.

(4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not more than Five Hundred Dollars (\$500.00), revocation of the person's operating privilege under Wis. Stat. § 343.30(6)(b)3 participation in a supervised work program under Subsection (d) or any combination of these penalties.

(5) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Common Council. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.

(6) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The

program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

(d) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

(e) A person who is under eighteen (18) years of age on the date of disposition is subject to Wis. Stat. § 48.344 unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Wis. Stat. § 48.344(3).

(f) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.

(g) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

#### **SEC. 11-4-5 DEFENSE OF SELLERS.**

(a) **Defenses.** Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:

(1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.

(2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.

(3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.

(b) **Book Kept by Licensees and Permittees.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this

Subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

State Law Reference: Wis. Stat. §§ 125.07(6) and (7).

**SEC. 11-4-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE: FALSE OR ALTERED IDENTIFICATION CARDS.**

(a) (1) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.08 or Sec. 343.50, Wis. Stats., who makes, alters or duplicates an official identification card, who provides an official identification card to an underage person or who knowingly provides other documentation to any underage person purporting to show that the underage person has attained the legal drinking age may be subject to a forfeiture of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) upon conviction.

(2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not more than ten (10) days or both.

(b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-4 (c) or (d):

(1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.

(2) Makes, alters or duplicates an official identification card.

(3) Presents false information to an issuing officer in applying for an official identification card.

State Law Reference: Wis. Stat. § 125.09(3).

**SEC. 11-4-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.**

(a) In this Subsection:

(1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.

(2) "School" means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

(3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

(4) "School premises" means premises owned, rented or under the control of a school.

(b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:

(1) On school premises;

(2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or

(3) While participating in a school sponsored activity.

(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 and ordinances.

(d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that Wis. Stat. § 48.344 and Section 11-4-4 (c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 11-5-5.

**SEC. 11-4-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.**

(a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.

(b) No adult may intentionally encourage or contribute to a violation of Section 11-4-4(a) or (b).

(c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00).

State Law Reference: Wis. Stat. §§ 125.07(1)(a)3 and 4.

**SEC. 11-4-9 NUDE DANCING IN LICENSED ESTABLISHMENTS PROHIBITED.**

(a) **Nude Entertainment Regulated.** It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of the licensee to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance, or exhibition on the premises of a licensed establishment which:

(1) Shows his or her genitals, pubic area, vulva, anus, anal clef, or cleavage with less than a fully opaque covering; or

(2) Shows any portion of the female breast below a point immediately above the top of the areola; or

(3) Shows the covered male genitals in a discernibly turgid state.

(b) **Exemptions.** The provisions of this ordinance do not apply to the following licensed establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music, and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

(c) **Definitions.** For purposes of this ordinance, the term "licensed establishment" means any establishment licensed by the Common Council of the City of Plymouth to sell alcohol beverages pursuant to Wis. Stat. ch. 125. The term "licensee" means the holder of a retail "Class A," "Class B," Class "B," Class "A," or "Class C" license granted by the Common Council pursuant to Wis. Stat. ch. 125.

(d) **Penalties.** Any person, partnership, or corporation who violates any of the provisions of this ordinance shall be subject to a forfeit of not less than Two Hundred Dollars (\$200.00), and not more than Five Hundred Dollars

(\$500.00) per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, violation of this ordinance constitutes sufficient grounds for suspending, revoking or non-renewing an alcohol beverage license under Wis. Stat. § 125.12.

- (e) **Severability.** If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

**SEC. 11-4-10 AFTER HOURS PRESENCE/CONSUMPTION PROHIBITED.**

(a) No person shall be upon any licensed premises, excepting only the licensee, his immediate family, an employee of the licensee, or other person permitted by law, at anytime during hours when said premises shall be closed as set forth on Sec. 7-2-15.

(b) No person shall consume any alcohol beverage upon any licensed premises, at anytime during hours when said premises shall be closed as set forth on Sec. 7-2-15.

## CHAPTER 5

### Offenses by Juveniles

- 11-5-1 Curfew
- 11-5-2 Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited
- 11-5-3 Designation of Halloween Trick or Treat Hours
- 11-5-4 City Jurisdiction Over Persons 12 through 17 Years of Age
- 11-5-5 Enforcement and Penalties
- 11-5-6 Habitual Truancy and School Dropout Prohibited

#### **SEC. 11-5-1 CURFEW.**

(a) **Curfew Established.** It shall be unlawful for any person under eighteen (18) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the City of Plymouth between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore:

(b) **Exceptions.**

(1) This Section shall not apply to a child:

- a. Who is performing an errand as directed by his parent, guardian, or person having lawful custody.
- b. Who is on his own premises or in the areas immediately adjacent thereto.
- c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
- d. Who is returning home from a supervised school, church, or civic function, but not later than thirty (30) minutes after the ending of such function.



(2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys, or public places or be in a parked motor vehicle on the public streets.

(c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under eighteen (18) years of age to allow or permit such person to violate the provisions of (a) or (6) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have owed or permitted any person under eighteen (18) years of age to violate this Section.

(d) **Taking a Child Into Custody.**

(1) Every law enforcement officer while on duty is hereby authorized to take into custody any child violating the provisions of Subsection (a) above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home authorized under Wis. Stat. § 48.277. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.

(2) If the child is not released under this Subsection, the officer shall deliver the child to the Sheboygan County Juvenile Court Intake Worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement in addition to giving a copy to the Intake Worker. A juvenile violating these curfews regularly may be warned by an officer on duty in his discretion and sent home in lieu of taking the juvenile into custody.

(3) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under Wis. Stat. § 49.20(4). If the child is believed to be mentally ill, drug dependent or developmentally disabled and exhibits conduct which constitutes a substantial risk of

physical harm to the child or to others, the officer shall take such action as is required under Wis. Stat. § 48.20(5). If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed, or is incapacitated by alcohol, the officer shall take such action as is required under Wis. Stat. § 48.20(6).

(e) **Warning and Penalty.** Any parent, guardian, or person having legal custody of a child described in Subsection (a) above who has been warned in the manner provided in Subsection (d)(1) herein and who thereafter violates this Section shall be subject to a penalty as provided in Section 1-1-7 of this Code of Ordinances. After a second violation within a six- (6-) month period, if the defendant in a prosecution under this Section proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Wis. Stat. ch. 48. Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the costs of prosecution.

#### **SEC. 11-5-2 REPEALED AND RESERVED FOR FUTURE USE.**

#### **SEC. 11-5-3 DESIGNATION OF HALLOWEEN "TRICK OR TREAT" HOURS.**

Halloween shall be officially observed in the City of Plymouth on the last Sunday of October from 3:00 p.m. until 5:00 p.m.

#### **SEC. 11-5-4 CITY JURISDICTION OVER PERSONS 12 THROUGH 17 YEARS OF AGE.**

(a) **Adoption of State Statute.** Wis. Stat. § 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.

(b) **Provisions of Ordinance Applicable to Persons 12 through 17 Years of Age.** Subject to the provisions and limitations of Wis. Stat. § 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 12 through 17 years of age may be brought on behalf of the City of Plymouth and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.

(c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.

(d) **Additional Prohibited Acts.** In addition to any other provision of the City of Plymouth Code of Ordinances, no person age 12 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Wis. Stat. ch. 125.

(e) **Penalty for Violations of Subsection (d).** Any person 12 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-7 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 11-4-7.

### **SEC. 11-5-5 ENFORCEMENT AND PENALTIES.**

(a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-4, juveniles may be cited by the citation process on a form approved by the City Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.

(b) **Penalties.** Violations of Sections 11-5-2 through 11-5-4 by a person under the age of eighteen (18) shall be punishable according to Wis. Stat. §§ 48.17(2), 48.343, 48.344, and 48.345.

### **SEC. 11-5-6 HABITUAL TRUANCY AND SCHOOL DROPOUT PROHIBITED.**

(a) In this Section:

(1) Dropout means a child who has 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 Wis. Stat. §§ 118.15(1)(b) to (d) or (3).

(2) Habitual Truant means a pupil who is absent from school without an acceptable excuse under Wis. Stat. §§ 118.15 and 118.16 (4) for part or all of five (5) or more days on which school is held during a school semester.

(3) Truant means a pupil who is absent from school without an acceptable excuse under Wis. Stat. §§ 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

(b) No person under eighteen (18) years of age shall be a truant. Upon conviction thereof the following dispositions are available to the court:

(1) An order for the person to attend school,

(2) A forfeiture of not more than Fifty Dollars (\$50.00) plus costs for a first violation, or a forfeiture of not more than One Hundred Dollars (\$100.00) plus costs for any second (2<sup>nd</sup>) or subsequent violation committed within twelve (12) months of a previous violation, subject to Wis. Stat. § 938.37, and subject to a maximum cumulative forfeiture of not more than Five Hundred Dollars (\$500.00) 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) No child shall be a habitual truant. Upon conviction thereof the following dispositions are available to the court:

(1) Suspension of the child's operating privilege for not less than thirty (30) days nor more than one (1) 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 child to participate in counseling or a supervised work program or other community service as described in Wis. Stat. § 938.34 (5g). The costs of any such counseling, supervised work program or community service work may be assessed against the person, the parents or guardian of the person, or both.

(3) An order for the child to remain at home except during hours in which the child 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 child to leave his or her home if the child is accompanied by a parent or guardian.

(4) An order for the child to attend an educational program as described in Wis. Stat. § 938.34 (7d).

(5) An order for the person to be placed in a teen court program described in Wis. Stat. § 938.342 (1g)(f).

(d) No child who is at least sixteen (16) years of age but less than eighteen (18) years of age shall be a dropout. Upon conviction thereof the court may suspend the child's operating privilege until the child reaches the age of eighteen (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.

## CHAPTER 6

### Public Nuisances

|        |   |
|--------|---|
| 11-6-1 | Public Nuisances Prohibited                   |
| 11-6-2 | Public Nuisances Defined                      |
| 11-6-3 | Public Nuisances Affecting Health             |
| 11-6-4 | Public Nuisances Offending Morals and Decency |
| 11-6-5 | Public Nuisances Affecting Peace and Safety   |
| 11-6-6 | Abatement of Public Nuisances                 |
| 11-6-7 | Cost of Abatement                             |
| 11-6-8 | Enforcement; Penalty                          |

#### **SEC. 11-6-1 PUBLIC NUISANCES PROHIBITED.**

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

#### **SEC. 11-6-2 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.

#### **SEC. 11-6-3 PUBLIC 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 11-6-2:

- (a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public. (Primary enforcement: Health Officer).

- (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. (Primary enforcement: Director of Public Works).
- (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. (Primary enforcement: Director of Public Works).
- (d) **Stagnant Water.** All stagnant water in which mosquitoes, flies, or other insects can multiply. (Primary enforcement: Director of Public Works).
- (e) **Garbage Cans.** Garbage cans which are not fly-tight. (Primary enforcement: Director of Public Works).
- (f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation. (Primary enforcement: Weed Commissioner).
- (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. (Primary enforcement: Utilities Manager).
- (h) **Noxious Odors, Etc.** Any use of property, substances or things within the City or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the City. (Primary enforcement: Building Inspector).
- (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. (Primary enforcement: Director of Public Works).
- (j) **Animals at-Large.** All animals running at-large. (Primary enforcement: Police Department).
- (k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood, and other refuse. (Primary enforcement: Director of Public Works).
- (l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or

to threaten or cause substantial injury to property. (Primary enforcement: Building Inspector).

#### **SEC. 11-6-4 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 11-6-2:

(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, except as permitted by state law.

(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 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.

#### **SEC. 11-6-5 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 11-6-2:

(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. (Primary enforcement: Building Inspector).

(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. (Primary enforcement: Building Inspector).

(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. (Primary enforcement: Director of Public Works and Police Department).

(d) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City. (Primary enforcement: Fire Chief).

(e) **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. (Primary enforcement: Building Inspector).

(f) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof. (Primary enforcement: Director of Public Works).

(g) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk. (Primary enforcement: Building Inspector).

(h) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside. (Primary enforcement: Police Department).

(i) **Flammable Liquids.** Repeated or continuous violations of the Ordinances of the City or laws of the State relating to the storage of flammable liquids. (Primary enforcement: Fire Chief).

## **SEC. 11-6-6 ABATEMENT OF PUBLIC NUISANCES.**

### **(a) Summary Abatement**

(1) Notice to Owner. If the inspecting officer determines that a public nuisance exists within the City and that there is a danger of public health, safety, peace, morals or decency, notice may be served by the inspecting officer or an authorized deputy on the person causing, maintaining, or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted; and a copy of such notice shall be posted on the premises. Such notice shall direct the



person causing, maintaining or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not less than twenty-four (24) hours or greater than seven (7) days and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, maintaining or permitting the nuisance, as the case may be.

(2) Abatement by City. If the nuisance is not abated within the time provided or if the owner, occupant, or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

(b) **Abatement by Court Action.** If the inspecting officer determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the inspector or sanitarian shall file a written report of such findings with the Mayor who, upon direction of the Council, shall cause an action to abate such nuisance to be commenced in the name of the City in the Sheboygan County Circuit Court in accordance with the provisions of Wis. Stat. ch. 823.

(c) **Court Order.** Except where necessary under Subsection (a), no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.

(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.

#### **SEC. 11-6-7 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, such cost shall be assessed against the real estate as a special charge.

#### **SEC. 11-6-8 ENFORCEMENT; PENALTY.**

(a) **Enforcement.** The Chief of Police, the Fire Chief, the Building Inspection Superintendent, Utilities Manager, Director of Public Works, and the Health Officer, or their designees, shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they may make periodic

inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Section 11-6-6 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.

(b) **General Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 1-1-7.

---

History: Ord. 7, 2011; Ord. 15, 2013; Ord. 16, 2013; Ord. 5, 2016; Ord. 11, 2016;

R:\CLIENT\10745\00007\00031425.DOC