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**PEACE AND ORDER 9.101.123**

9.101.123 to 9.961.575 (2) **OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.** The following statutes following the prefix "9" defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under §25.04 of this Code of Ordinances:

9.101.123	Regulation of Smoking in Public Conveyances and Places
9.167.10	Regulation of Fireworks
9.175.25	Illegal Storage of Junked Vehicles
9.939.05	Parties to Crime
9.939.22	Words and Phrases Defined
9.941.12(2),(3)	Interfering With or Failing to Assist in Fire Fighting
9.941.13	False Alarms and Interference With Fire Fighting
9.941.23	Carrying Concealed Weapon
9.941.24	Possession of Switch Blade Knife
9.943.01(1)	Criminal Damage to Property (Less than \$1,000)
9.943.20	Theft (Less than \$500)
9.943.21	Fraud on Hotel or Restaurant Keeper (\$500 or Less)
9.943.50	Shoplifting
9.945.03 (1m)(e)	Gambling Machines
9.946.40	Refusing to Aid Officer
9.946.41	Resisting or Obstructing Officer
9.947.01	Disorderly Conduct
9.947.012	Unlawful Use of Telephone
9.948.45	Contributing to Truancy
9.951.01-9.951.16	Crimes Against Animals
9.961.573 (1)	Possession of Drug Paraphernalia
9.961.573(2)	Possession of Drug Paraphernalia by Persons Under the Age of 17
9.961.574 (1)	Manufacture or Delivery of Drug Paraphernalia
9.961.574 (2)	Manufacture or Delivery of Drug Paraphernalia by Persons under the Age of 17
9.961.575 (1)	Delivery of Drug Paraphernalia to a Minor
9.961.575 (2)	Delivery of Drug Paraphernalia to a Minor by Persons under the Age of 17

## PEACE AND ORDER 9.02(1)

9.02 **POSSESSION OR DRINKING OF ALCOHOL BEVERAGES.** (1) ON PUBLIC WAYS PROHIBITED. (a) No person shall have in his possession any open can, bottle or other container containing malt beverages or intoxicating liquor or drink from the same on any public way, public street, sidewalk, boulevard, parkway, safety zone, alley or public parking lot or on or in any motor vehicle parked on a public way, public street, alley or public parking lot.

(b) No person shall consume any fermented malt beverage or intoxicating liquor or possess any open can, bottle or other container containing fermented malt beverages or intoxicating liquor outside the premises of any tavern on any property contiguous or adjacent thereto if such property is under the control or management of the tavern's license holder, agent or owner.

(c) The provisions of par. (b) above shall not apply if the holder of the tavern license first applies to the City Police Department and receives permission to hold a private party or gathering where alcohol beverages will be consumed. Such application shall be made to the Chief of Police or his designated subordinate and shall be such as to satisfy the Chief of the following:

1. The identity of the license holder.
2. The time, place and duration where authorization is requested.
3. The approximate number of persons for whom authorization is requested.
4. The name or names of those persons responsible for conducting the party or gathering.

(d) The Chief of Police or his designated subordinate is hereby authorized to grant permission as outlined herein when the information in par. (c) is satisfactorily supplied. In no case shall permission granted under this paragraph extend for a period of more than 24 hours.

(2) AT GOODRICH HIGH SCHOOL. No person shall have in his possession or consume any alcohol beverage while on Goodrich High School property, including Fruth Memorial Field.

9.03 **CLIMBING ON MOTOR VEHICLES.** No person shall lean against, climb, lay or sit upon the motor vehicle of another person without permission from the owner or person in charge of such vehicle while the vehicle is parked or standing upon the public streets or public parking lots of the City.

## PEACE AND ORDER 9.04

9.04 **CURFEW.** (1) **LOITERING OF MINORS PROHIBITED.** No person under the age of 18 years, but over the age of 14 years shall loiter or idle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, vacant lots or other unsupervised places between midnight and 5 a.m. No person aged 14 years or under shall loiter or idle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, vacant lots or other unsupervised places between 10:30 p.m. and 5 a.m. The provisions of this section do not apply to a minor accompanied by his parent or guardian and to minors attending approved school functions approved by the school principal or superintendent of the school district in advance of the school function for the period of one hour after the close of the approved school function. Similarly, the provisions of this section do not apply in circumstances in which the minor was exercising First Amendment rights protected by the United States Constitution or the Wisconsin Constitution, including freedom of speech, the free exercise of religion and/or the right of assembly. Nor do they apply if the minor is on emergency errand or if the minor is participating in, going to, or returning from lawful employment. Unless flight by the minor or other circumstances make it impracticable, a peace officer shall not issue a citation for an offense under this section unless the officer reasonably believes that an offense has occurred, and that none of the exceptions to the curfew restriction described herein applies. As used in this section, "emergency errand" means that the presence of the minor is necessitated by an emergency situation in which property or human life are in jeopardy and the prompt summoning or rendering of aid is essential.

(2) **RESPONSIBILITY OF PARENTS.** No parent, guardian or other adult person having the care and custody of a child under the age of 18 years, but over the age of 14 years shall knowingly permit such minor to loiter or idle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, vacant lots or other unsupervised places within the limits of the City between the hours of midnight and 5 a.m. No parent, guardian or other adult person having the care and custody of a child aged 14 years or under shall knowingly permit such minor to loiter or idle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, vacant lots or other unsupervised places within the limits of the City between the hours of 10:30 p.m. and 5 a.m. The provisions of this section do not apply to a minor accompanied by his parent or guardian and to minors attending approved school functions approved by the school principal or superintendent of the school district in advance of the school function for the period of one hour after the close of the approved school function. Similarly, the provisions of this section do not apply in circumstances in which the minor was exercising First Amendment rights protected by the United States Constitution or the Wisconsin Constitution, including freedom of speech, the free exercise of religion and/or the right of assembly. Nor do they apply if the minor is on emergency errand or if the minor is participating in, going

## PEACE AND ORDER 9.04

to, or returning from lawful employment. Unless flight by the minor or other circumstances make it impracticable, a peace officer shall, prior to issuing a citation for an offense under this section, afford the minor an opportunity to explain his or her reasons for being present in the public place. A peace officer shall not issue a citation for an offense under this section unless the officer reasonably believes that an offense has occurred, and that none of the exceptions to the curfew restriction described herein applies. As used in this section, "emergency errand" means that the presence of the minor is necessitated by an emergency situation in which property or human life are in jeopardy and the prompt summoning or rendering of aid is essential.

Each violation of the provisions of this section shall constitute a separate offense.

(3) VIOLATIONS. (a) Any minor under the age of 17 violating the provisions of sub. (1) shall be dealt with in accordance with Chapters 48 and 938 Wis. Stats.

(b) Any person 17 years or older violating this section shall, upon conviction thereof, be subject to a penalty as provided in Chapter 25.04 of this Code of Ordinances.

9.05 **LOITERING AND PROWLING.** (1) LOITERING. 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 appearance of a peace 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 any 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 peace 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.

(2) DWELLING AREAS, ETC. No person shall wait or otherwise loiter in the vicinity of any private dwelling house, apartment building or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

(3) PUBLIC REST ROOMS. No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

## PEACE AND ORDER 9.05(4)

(4) PUBLIC GROUNDS. No person shall loiter in or about any public grounds at or near where children or students normally congregate. As used in this subsection, "loiter" means to delay, linger or idle in or about any public grounds without a lawful purpose for being present.

(4m) PRESENCE ON SCHOOL GROUNDS PROHIBITED. (a) No person other than a student of the particular school, parent or guardian of such student, or employee or agent of the Fond du Lac School District shall be present in the building or on the grounds of any school operated by the District during regular school hours on any day when the school is in session without the express permission of an authorized representative of the school.

(b) A student of a particular school who is on school grounds but who is not in attendance at an assigned class at any particular time shall be guilty of a violation of this ordinance.

(c) A student who has been suspended or expelled from a school shall not be considered a student of the school during the period of such suspension or expulsion and is prohibited from being present on any school building, premises or grounds at any time throughout the period of such suspension or expulsion absent express permission from an authorized representative of the school.

(d) Any person who goes into a school building or onto the school grounds in violation of Subsections (a), (b), and (c) above and subsequently refuses to leave said building or grounds after being requested to do so by an authorized representative of the school or a police officer shall be deemed in violation of the ordinance.

(e) If a school is an official polling place, subsections (a), (b), and (c) shall not apply to an elector entering said building on a designated election day to cast his or her ballot.

(5) PUBLIC BUILDINGS. No person shall lodge in any public building, structure or place without the permission of the owner or person entitled to possession or in control thereof.

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

(7) LOITERING AFTER BEING REQUESTED TO MOVE. (a) Obstructing Highways. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

## PEACE AND ORDER 9.05(7)(b)

(b) In Groups or Crowds. No person shall loaf or loiter in a group or a crowd upon the public streets or sidewalks, or in adjacent doorways or entrances, or on street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move on by any police officer or by any person in authority at such places.

(c) In Places of Public Assembly or Use. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, sidewalk, parking lot, or other place of assembly or public use after being requested to move on by any police officer or by the owner or other person in charge of such place. Upon being requested to move, a person shall comply immediately with such request by leaving the premises or the area.

(d) When Signs Posted. No person shall loiter, lounge or loaf on private property posted by means of a sign or signs prohibiting such conduct, without the express consent of the owner or other person in charge thereof. The presence of a person on such property for a period of ten (10) minutes or longer in charge, or his/her/its agent shall be presumptive evidence of a violation of this paragraph.

9.06 **UNLAWFUL SHELTERING OF MINORS**. No person shall, unless licensed under the Wisconsin Statutes, without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the City Police Department of the existence of a minor described in sub. (1) herein, on premises owned or operated by or under the control of such person:

(1) By any means conceal or shelter or assist in the concealing or sheltering of any minor under the age of 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, runaway or wanted person; or

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

9.07 **UNNECESSARY NOISE**. (1) PROHIBITED. No person shall cause any unreasonably loud, disturbing or unnecessary noise or any noise of such character, intensity or duration as to be detrimental to the life or health of an individual or which is in the disturbance of public peace and welfare.

## PEACE AND ORDER 9.07(2)

(2) **ENGINE OR COMPRESSION BRAKING.** No person operating a truck or tractor-trailer within the corporate limits of the City of Fond du Lac shall utilize an engine or compression brake between the hours of 9:00 p.m. and 6:00 a.m. except in an emergency to avoid an accident or to otherwise ensure the safe stopping of the vehicle.

9.08 **POSSESSION OF MARIJUANA.** (1) **PROHIBITED.** No person within the corporate limits of the City shall possess marijuana, unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.

(2) **DEFINITIONS.** The following terms have the meanings indicated:

**Marijuana.** All parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

**Practitioner.** 1. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to administer a controlled substance in the course of professional practice or research in this State.

2. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this State.

9.09 **FIREARMS AND WEAPONS.** (1) **FIREARMS.** (a) No person shall fire or discharge any cannon, rifle, revolver, air rifle, pellet gun or other firearm within the City, except as provided in this section.

(b) This subsection shall not apply to:

1. Any police officer acting in the course of his duties.
2. Any licensed rifle range.

## PEACE AND ORDER 9.09(1)

3. Any person who first applies to and receives from the Chief of Police a written permit allowing or permitting the person to fire such firearm. Application for a permit and the issuance of the same shall be as generally provided by §12.02 of this Code of Ordinances.

(2) CONCEALED WEAPONS. (a) Prohibited. No person, except an authorized police officer, other law enforcement officer or person licensed, shall carry or wear concealed about his person any pistol, slingshot, cross knuckle, knuckles of lead, brass or other metal, dagger or knife having a blade over 8" in length, weapons used in the practice of martial arts including, but not limited to, those known as numchucks and shooting stars, or any other dangerous weapon within the limits of the City.

(b) Possession by and Sale to Minors Prohibited. No minor shall possess nor shall any person buy for, sell or give to any minor any weapon enumerated in par. (a) above or any other dangerous weapon without the express written consent of the parent or guardian of such minor. This subsection is intended to supplement, not abrogate, any existing regulations concerning firearms or other weapons and does not relieve any person from any responsibilities, duties or prohibitions mandated by any provision of State or federal law.

(3) AIR RIFLES, SLINGSHOTS, BOWS AND ARROWS. (a) No person shall use any slingshot of any kind or any air gun, spring gun or other device for the purpose of throwing stones, lead, wood or any other substance within the limits of the City.

(b) No person shall use any bow and arrow within the limits of the City, except in an area and under circumstances approved by the Chief of Police.

(4) PROHIBITIONS; MOTORBOATS AND VEHICLES; HIGHWAYS AND ROADWAYS. (a) Except as provided in §167.31(4), Wis. Stats., no person may place, possess or transport a firearm, air rifle, pellet gun, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or the bow or crossbow is unstrung or is enclosed in a carrying case.

(b) Except as provided in §167.31(4), Wis. Stats., no person may place, possess or transport a firearm, air rifle, pellet gun, bow or crossbow in or on a vehicle, unless the firearm is unloaded and encased or the bow or crossbow is unstrung or is enclosed in a carrying case.

## PEACE AND ORDER 9.10

(c) Except as provided in §167.31(4), Wis. Stats., no person may load or discharge a firearm, air rifle or pellet gun or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.

9.10 **THROWING STONES.** No person shall throw or cast any stone or other missile at or upon any person, any building or public or private property, at or upon any railroad locomotive, coach, car, bus or other vehicle in the City.

9.11 **FRAUD ON RESIDENTIAL LANDLORDS PROHIBITED.** (1) PROHIBITED ACTS. No person shall, with intent to defraud, do any of the following:

(a) Intentionally abscond without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premises by the tenant and the nonpayment of the rent continues for a period of 5 days after vacation of the premises; or

(b) Issue any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails within 5 days of a written demand by the landlord or agent to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.

(2) APPLICABILITY. This section shall apply to rental agreements between residential landlords and tenants only. Words and terms used in this section shall be defined and construed in conformity with the provisions of Ch. AG 134, Wis. Adm. Code; Ch. 704 and §990.001(1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not in itself act as a bar to prosecution under this section.

(3) PROCEDURE. An officer may issue a citation only when the complainant provides the following:

(a) The name and current address of the tenant, a copy of the subject lease agreement or sworn testimony of the terms of the subject oral lease.

(b) The amount of rent due, date it was due, date the tenant actually vacated the premises and testimony that the rent remained unpaid for not less than 5 days after vacating and that the tenant did not notify or attempt to notify the complainant of tenant's new address or that tenant knowingly gave complainant a false address.

## PEACE AND ORDER 9.12

(c) As to an unredeemable payment, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof that the tenant received the written demand and testimony that at least 5 days have elapsed since the demand was received and no payment has been made.

9.12 **ALARMS, ALARM SYSTEMS AND USERS.** (1) DECLARATION OF PURPOSE. This section is enacted to provide minimum standards and regulations applicable to burglar and hold-up alarm systems, alarm businesses and alarm users. Both society in general and public safety in particular will be aided by providing a useful and usable system of private security, which properly balances quick response by police with minimization of police time spent on alarms which are false or otherwise not the intended function of private security systems.

(2) DEFINITIONS. Within this section, the following terms, phrases and words and their derivations have the meaning given herein:

**Alarm Business.** Any business in which the owners or employees engage in the activity of altering, installing, leasing, maintaining or repairing, replacing, selling or servicing alarm systems.

**Alarm System.** An assembly of equipment and devices or a single device, such as a solid state unit which plugs directly into a 110 volt AC line or otherwise receives electrical energy arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. In this section, the term shall include, but not be limited to, the terms "Automatic Holdup Alarm System," "Burglar Alarm Systems," "Holdup Alarm Systems" and "Manual Holdup Alarm Systems" as those terms are hereafter defined. Excluded from this definition and from the coverage of this section are alarm systems used to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If a system employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, the system shall be within the definition of alarm system and shall be subject to this section.

**Annunciator.** The instrumentation on an alarm console at the receiving terminal of a signal line which through both visual and audible signals shows when an alarm device at a particular location has been activated or it may also indicate line trouble.

**Answering Service.** A telephone answering service providing among its services the receiving on a continuous basis through trained employees of emergency signals from alarm systems and immediately relaying the message by live voice to the communication center of the Police Department.

**Automatic Dialing Device.** An alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

**Automatic Holdup Alarm System.** An alarm system in which the signal transmission is initiated by the action of the robber.

**Burglar Alarm System.** An alarm system signaling an entry or attempted entry into the area protected by the system.

**False Alarm.** The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his employees or agents or other undetermined causes.

**Holdup Alarm System.** An alarm system signaling a robbery or attempted robbery.

**Manual Holdup Alarm System.** An alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.

**Police Chief.** The Chief of the Police Department of the City or his designated representative.

**Subscriber.** A person who buys, leases or otherwise obtains an alarm signaling system and thereafter contracts with or hires an alarm business to either monitor or service the alarm device or both.

(3) ADMINISTRATIVE RULES. The Police Chief shall promulgate such rules as may be necessary for the implementation of this section. These rules shall require approval of the City Manager and shall be open to inspection by the public.

(4) AUTOMATIC DIALING DEVICES. (a) No person shall interconnect any automatic device to a Police Department primary trunkline and no person shall permit such devices to remain interconnected from any property owned or controlled by that person. Such devices may be interconnected to a modified central station or an answering service. Relaying messages so received to the Police Department shall only be done person to person on the telephone line designated by the Police Chief. The Police Chief may approve a direct line installation between modified central station or an answering service to the Police Department, with full costs to be borne by the intermediate service.

## PEACE AND ORDER 9.12(4)

(b) The alarm user will provide the Police Department with the names and telephone numbers of at least 2 other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by the automatic alarm device and who can open the premises wherein the device is installed. If either of these people cannot be contacted or if they refuse to cooperate with police officials, they shall be subject to a forfeiture under the penalty section of this chapter.

(5) TESTING. (a) No alarm system designed to transmit emergency messages directly to the Police Department shall be tested or demonstrated without first notifying the Police Department dispatcher.

(b) No alarm system relayed through intermediate services to the Police Department will be tested to determine police response without first notifying the police dispatcher.

(6) NOTIFICATION. When an alarm business service to its subscribers is disrupted for any reason by the alarm business or the alarm business becomes aware of such disruption, it shall promptly notify its subscribers by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscriber not to make such notification by telephone during certain hours, the alarm business may comply with such instructions.

(7) FEE FOR ANSWERING ALARMS. (a) There is hereby imposed a fee for each police response to any alarm resulting from the activation of an alarm system, except when the police find that an unauthorized person is on the premises or was seen on the premises immediately before the alarm was activated or that there is fresh evidence of a forceful entry or attempted forceful entry. Such fee for each premises shall be \$50 for the third and fourth response in any calendar year, \$75 for the fifth response in any calendar year, and \$100 for the sixth and/or any subsequent response in that calendar year.

(b) The fee is imposed whether the Police Department receives the alarm by direct connection or through any intermediary, such as an answering service or modified central station. No fee is imposed by this section when the choice is made to notify the Police Department directly by person of any situation. The fee imposed by this section is imposed solely when the choice is made to employ an alarm system. If the Police Chief is notified of the date of the installation of a new alarm system, the fee imposed by this section is waived for a 90 day period beginning with the date of installation.

(8) TERMINATION OF DIRECT CONNECTION. The Police Chief is authorized to require that the owner or lessee of any alarm system directly connected to the Department shall disconnect such device until it is working in a manner as will not produce a high frequency of false alarms. The Police Chief shall require disconnection if 10 false alarms are received in any 12 month period. The Police Chief may, after giving notice to the subscriber, order disconnection of the system for noncooperation of the subscriber or for violations of this section.

## PEACE AND ORDER 9.13

9.13 **DISCRIMINATION PROHIBITED.** (1) **DECLARATION OF POLICY.** The practice of providing equal opportunities in housing and public accommodations without regard to sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status is a desirable goal of the City and a matter of legitimate concern to its government. Discrimination against any of the City's citizens or visitors endangers the rights and privileges of all. The denial of equal opportunity intensifies group conflict, undermines the foundations of our democratic society and adversely affects the general welfare of the community. Denial of equal opportunity in housing compels individuals and families who are discriminated against to live in dwellings below the standards to which they are entitled. Denial of equal opportunity in public accommodations subjects those discriminated against to embarrassment and discomfort and creates distress and unrest within the community. Provision for adequate safeguards against such discrimination is a proper and necessary function of the City government. In order that the peace, freedom, safety and general welfare of all inhabitants of the City may be protected and ensured, it is hereby declared to be the public policy of the City to encourage and foster to the fullest extent the protection by law of the rights of all of its inhabitants to equal opportunity in housing and public accommodations without regard to sex, race, color, sexual orientation, handicap, religion, national origin, marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status.

(2) **DEFINITIONS.** The following terms have the meanings indicated:

**Discriminate and Discrimination.** To segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status. It is intended that the factors set forth herein shall be the sole basis of prohibiting discrimination under sub. (3).

**Handicap.** Any physical disability or developmental disability as defined under §51.01(5)(a), Wis. Stats.

**Housing.** Any improved property, including any mobile home as defined in §66.058, Wis. Stats., which is used or occupied or is intended, arranged or designed to be used or occupied as a residence, home or place of habitation for one or more human beings.

**Lodging Establishment.** As defined in §101.22(1m)(bo), Wis. Stats.

## PEACE AND ORDER 9.13(3)

**Person.** One or more individuals, partnerships, associations, corporations, legal representatives, trustees, receivers or other fiduciaries or the agent or agents thereof.

**Public Place of Accommodation or Amusement.** As defined in §101.22(1m)(bp), Wis. Stats.

**Transfer.** The term shall not apply to the transfer of property by will or gift.

**Unimproved Residential Lot.** Any residential lot upon which no permanent building or structure containing living quarters has been constructed.

(3) DISCRIMINATION IN HOUSING. (a) Prohibited. No person shall discriminate:

1. By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.
2. By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.
3. By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
4. By publishing, circulating, issuing or displaying or causing to be published, circulated, issued or displayed any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.
5. For a person in the business of insuring against hazards by refusing to enter into or by exacting different terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling.
6. By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.

(b) Exceptions. 1. Nothing in this subsection shall prohibit discrimination on the basis of age in relation to housing designed to meet the needs of elderly individuals.

2. Nothing in this subsection shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.

**PEACE AND ORDER 9.13(4)**

3. Nothing in this subsection shall prohibit the development of housing designed specifically for persons with a handicap and discrimination on the basis of handicap in relation to such housing.

(4) DISCRIMINATION IN PUBLIC PLACE OF ACCOMMODATION OR AMUSEMENT PROHIBITED. (a) No person may do any of the following:

1. Deny to another or charge another a higher price than the regular rate for the full and equal enjoyment of any public place of accommodation or amusement because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status.

2. Deny to an adult or charge an adult a higher price than the regular rate for the full and equal enjoyment of a lodging establishment because of age, subject to §125.07, Wis. Stats.

3. Give preferential treatment to some classes of persons in providing services or facilities in any public place of accommodation or amusement because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status.

4. Directly or indirectly publish, circulate, display or mail any written communication which the communicator knows is to the effect that any of the facilities of any public place of accommodation or amusement will be denied to any person by reason of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status or that the patronage of a person is unwelcome, objectionable or unacceptable for any of those reasons.

5. Directly or indirectly publish, circulate, display or mail any written communication which the communicator knows is to the effect that any of the facilities of a lodging establishment will be denied to an adult because of age, subject to §125.07, Wis. Stats.

6. Refuse to furnish or charge another a higher rate for any automobile insurance because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status.

## PEACE AND ORDER 9.13(4)(7)

7. Refuse to rent, charge a higher price than the regular rate or give preferential treatment because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining household, lawful source of income, age, ancestry or familial status, regarding the use of any private facilities commonly rented to the public.

(b) Nothing in par. (a) prohibits separate dormitories at higher educational institutions or separate public toilets, showers, saunas and dressing rooms for persons of different sexes.

(c) Nothing in par. (a) prohibits separate treatment of persons based on sex with regard to public toilets, showers, saunas and dressing rooms for persons of different sexes.

(5) AIDING AND ABETTING. No person shall aid, abet, incite, compel or coerce the doing of any act which violates this section or obstructs or prevents any person from complying with the provisions of this section.

(6) EQUAL OPPORTUNITIES COMMISSION. The City Manager, subject to confirmation by the City Council, shall appoint an Equal Opportunities Commission, consisting of 5 members, one of whom shall be designated chairman by the members of the Commission. Members shall be appointed from the entire City and shall be representative of all races, creeds, colors, organizations and fields of endeavor. They shall receive no compensation for their services.

(a) The term of office shall expire on the last day of April of each year. Two members shall be initially appointed for a one year term, 2 members for 2 year terms and one member for a 3 year term. Thereafter, appointments shall be for 3 year terms. Any appointments to fill vacancies on the Commission shall be for the duration of the unexpired term only.

(b) The Equal Opportunities Commission shall have the following powers and duties:

1. The Commission may promulgate such rules as are necessary for it to carry out its duties and in this regard may hold hearings, take testimony and make independent investigations. The Commission may, upon its motion, test and investigate for the purpose of establishing violations and may make, sign and file complaints alleging violations and initiate studies to carry out their duties.

## **PEACE AND ORDER 9.13(6)(b)**

2. To study the existence, character, causes and extent of the denial of equal opportunities because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status.

3. To informally recommend solutions to individuals' problems that may arise which involve the denial of equal opportunities because of sex, race, color, sexual orientation, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age, ancestry or familial status.

4. To disseminate information and provide technical assistance, consultation training programs and other techniques to educate the people of the City and to aid both private and public agencies to use their resources to promote equal opportunities for all persons.

5. To receive complaints alleging violation of this section and to attempt to eliminate or remedy any violation by means of conciliation, persuasion, education or any other means to make the complainant whole again. In case agreement is reached, a conciliation agreement in writing shall be signed by the complainant and respondent and by the chairman of the Equal Opportunities Commission. The signed conciliation agreement shall have the effect of a Commission order. In those cases where the Commission obtains compliance with this section before a hearing is held or where the Commission, upon investigation, finds that the complaint is without foundation, no public disclosure shall be made by the Commission of the names of the person or persons named in the complaint and of the complainant, unless required by §19.52, Wis. Stats. Nothing herein shall prohibit confidential communications and exchange of information including, but not limited to, the names of the people involved and the results of any investigation between the Equal Opportunities Commission and other official governmental agencies.

6. To render from time to time, but not less than once a year, a written report of its activities and recommendations to the City Manager and to the City Council.

7. To adopt such rules and regulations as may be necessary to carry out the purposes and provisions of this section.

8. The Commission may from time to time designate a commissioner or commissioners to carry out its duties.

(c) The Equal Opportunities Commission shall use the following procedures in acting on complaints of discrimination:

## PEACE AND ORDER 9.13(6)(8)

1. The Commission may receive and investigate a complaint charging an alleged discrimination if the complaint is filed with the Commission no more than 300 days after the alleged discrimination occurred. A complaint shall be a written statement of the essential facts constituting the discrimination charged and shall be verified.
2. If the Commission finds probable cause to believe that any discrimination has been or is being committed, it shall immediately endeavor to eliminate the practice by conference, conciliation or persuasion. In case of failure, so to eliminate the discrimination, the Commission shall issue and serve a written notice of hearing, specifying the nature of the discrimination which appears to have been committed and requiring the respondent to answer the complaint in writing within 10 days after receipt of the notice of hearing and to appear at the hearing on the appointed date. The notice shall specify a time of hearing not less than 30 days after service of the notice of hearing. The testimony at the hearing shall be recorded.
3. If after the hearing the Commission finds that the respondent has engaged in discrimination, it shall make written findings and order such action by the respondent as will redress the injury done to complainant in violation of this section, bring respondent into compliance with its provisions and generally effectuate the purpose of this section.
4. The Commission shall serve a certified copy of its findings and order on the respondent.
5. If the Commission finds that the respondent has not engaged in discrimination as alleged in the complaint, it shall serve a certified copy of its findings on the complainant, together with an order dismissing the complaint.
6. The Commission shall monitor in such manner as it shall determine appropriate compliance with its conciliation agreements and order.
7. Whenever in the judgment of the Commission the judicial enforcement of this section is necessary, the Commission shall in writing request the City Council to enforce this section in the name of the City.
8. Upon receipt of a request by the City Council, the City Attorney shall have the authority to seek enforcement of this section in a court of competent jurisdiction.
9. All orders of the Equal Opportunities Commission shall be final administrative determinations and shall be subject to review in court as may be provided by law.

## PEACE AND ORDER 9.13(7)

(7) PENALTY. (a) Any person who willfully violates this section or any lawful order issued under this section shall, for the first violation, forfeit not less than \$100 nor more than \$1,000.

(b) Any person adjudged to have violated this section within 5 years after having been adjudged to have violated this section, for every violation committed within the 5 years, shall forfeit not less than \$1,000 nor more than \$10,000.

(c) Payment of a forfeiture under this section shall be stayed during the period in which any appeal may be taken and during the pendency of an appeal.

9.14 **CARRYING AND DISPLAYING FACSIMILE FIREARMS.** (1) No person, except when on his land or in his own abode or fixed place of business, shall carry and display any facsimile firearm in such a manner as could reasonably be expected to alarm, intimidate, threaten or terrify another person.

(2) "Facsimile firearm" shall mean any replica, toy, antique, starter pistol or other object which bears a reasonable resemblance to or which reasonably can be perceived as an actual operable firearm.

### 9.15 **FOND DU LAC STATEWIDE SMOKING BAN.**

(a) The City hereby adopts the provisions of Section 101.123, *Wis. Stats. Smoking Prohibited* in its entirety and any subsequent amendments or iterations thereafter.

9.16 **TRUANCY PROHIBITED.** (1) AUTHORITY. This Ordinance is adopted pursuant to authority granted in §118.163(2) of the Wisconsin Statutes.

(2) DEFINITIONS. For purposes of this section, the following terms have the meanings indicated:

**Acceptable Excuse.** As defined in §§118.15 and 118.16(4), *Wis. Stats.*

**Habitual Truant.** A pupil who is absent from school without an acceptable excuse under §118.15 of the Wisconsin Statutes part or all of 5 or more days on which school is held during a school semester.

## PEACE AND ORDER 9.16(2)

**Operating Privilege.** Operating privilege has the meaning given in §340.01(40) of the Wisconsin Statutes.

**Truancy Ordinance Enforcement Officer.** An employee of the school district designated by the Fond du Lac Chief of Police, Assistant Chief of Police, or the Principal of the Fond du Lac High School, who shall have the authority to issue municipal citations for violations of §9.16 of the Code of Ordinances.

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

(3) PROHIBITION. (a) It shall be a violation of this ordinance for a person under the age of 18 to be habitual truant as defined in subsection (2) above.

(b) It shall be a violation of this subsection for any person under the age of 18 to be truant, as defined in subsection (2) above.

(4) DISPOSITION. (a) Upon finding a person a habitual truant, the Court shall impose one or more of the following dispositions:

1. Suspension of the person's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

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

3. An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

**PEACE AND ORDER 9.16(4)**

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

5. An order for the department of workforce development to revoke, under §103.72 Wis. Stats., a permit under §103.70 Wis. Stats., authorizing the employment of the person.

6. An order for the person to be placed in a teen court program as described in §938.342(1g)(f) of the Wis. Stats.

7. An order for the person to attend school.

8. A forfeiture of not more than \$500 plus costs, subject to §938.37 of the Wis. Stats. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

9. Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

10. An order placing the person under formal or informal supervision, as described in §938.34(2) of the Wis. Stats., for up to one year.

11. An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

12. An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in §938.342(1g)(k) of the Wis. Stats.

(b) Upon finding a person a truant, the Court shall impose one or more of the following dispositions:

1. An order for the person to attend school.

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

## PEACE AND ORDER 9.17

3. An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in §938.342(1d)(c) of the Wis. Stats.

9.17 **DEFACEMENT OR DAMAGE OF PROPERTY BY GRAFFITI.** (a) Graffiti is hereby specifically declared to be a public nuisance, as defined in Chapter 10 of this Code, affecting peace and safety.

(b) No person shall write, spray, scratch or otherwise affix graffiti upon any property whether private or public without the consent of the owner or owners of said property. Any person who shall affix graffiti to any property without the consent of the owner shall be liable for the costs of removing or covering such graffiti in addition to any fines imposed for violating this section. The parents of any unemancipated minor child who affixed graffiti may be held liable for the cost of removing or covering said graffiti in accordance with Wisconsin Statutes Section 895.035.

(c) Every owner or occupant of a structure or property defaced by graffiti shall notify the Fond du Lac Police Department of the graffiti before removing or covering such graffiti.

(d) Every owner of a structure or property defaced by graffiti shall comply with the terms of a written notice served upon them by the Fond du Lac Police Department to remove or cover such graffiti.

(e) In the event any owner fails to comply with the above-mentioned notice, the Fond du Lac Police Department shall have the graffiti covered or removed and all costs, fees and expenses will be assessed to said owners' real estate taxes pursuant to sec. 66.60(16) of the Wisconsin Statutes.

9.18 **FRAUDULENT RETURN OF MERCHANDISE.** Whoever returns merchandise to a merchant for the purpose of claiming a cash refund or credit by intentionally deceiving the merchant with a representation that such merchandise was purchased by such person from such merchant at the price claimed where such merchandise was, in fact, not purchased by such person or was not purchased from such merchant or was purchased at a price lower than the price claimed shall be guilty of a violation of this section. The intentional giving of a false name or address to a merchant during the return of merchandise is evidence of intent to defraud a merchant.

## PEACE AND ORDER 9.19

9.19 **FRAUD IN HOUSING ASSISTANCE.** (a) No person shall willfully make any false representation with the intent to secure housing assistance for that person or for some other person.

(b) No person shall willfully do any act designed to interfere with the proper administration of the housing assistance programs.

(c) Any person who receives assistance for dwelling accommodations under Section 66.402, Wis. Stats., shall notify the housing authority granting such assistance of any increase in income, assets or change in family composition within twenty (20) days after the receipt of those assets, income, or change in family composition.

(d) Any person who makes any statement in written application for aid under Chapter 66 of the Wisconsin Statutes shall be considered to have made an admission as to the existence, correctness and validity of any facts stated which shall be considered prima facie evidence against the party making it in any complaint and in any action or proceeding brought for enforcement of any provision of this section.

(e) "Housing Assistance" as used in this section includes assistance obtained through Housing Authority programs.

9.20 **TRESPASS** (a) No person shall intentionally enter or remain upon the land or premises of another without the consent of the owner, occupant or person in charge, or after having been forbidden to do so, or after such land or premises have been posted by the owner, occupant or any other authorized person with a conspicuous notice forbidding trespassing.

(b) No person shall neglect or refuse to depart from the land or premises of another when ordered to do so by the owner, occupant or any other person with authority to order such departure.

(c) A person has received notice from the owner, occupant, or person in charge within the meaning of this section if such person has been notified personally, either orally or in writing, or if the land or premises have been posted. For land or premises to be posted, a sign at least 11 inches square must be placed in at least one conspicuous place on such land or premises. The sign must carry an appropriate notice forbidding trespassing.

(d) This section shall not apply to police officers, firefighters, code enforcement personnel or other public officials, employees or representatives, in the discharge of their official duties.

## PEACE AND ORDER 9.21

9.21 **VEHICULAR TRESPASSING.** (1) PROHIBITION. No person may operate, park, stop, or leave standing a motor vehicle on private or public property contrary to a sign posted on such property.

(2) OWNER LIABILITY. The owner of a vehicle involved in a violation of subsection (1) shall be presumed liable for the violation as provided in this section. For the purposes of this section, "owner" shall have the meaning provided in Section 346.01(2), of the Wisconsin Statutes.

(3) REPORT OF VIOLATION. A person in control of property, or his or her designee, who observes a violation of this section on such property may prepare a written report indicating that a violation has occurred. Such report shall include the time and location of the violation and the license number, color, and type of vehicle in violation. The report shall be delivered to the Police Department within 48 hours after observing the violation.

(4) DEFENSES. Defenses to the imposition of liability under this section include:

(a) That a report that the vehicle was stolen was given to a traffic officer before the violation occurred or within a reasonable time after the violation occurred.

(b) If the vehicle is owned by a lessor of vehicles and at the time of the violation the vehicle was in the possession of a lessee, and the lessor provides the Police Department with the information required under Section 343.46(3), of the Wisconsin Statutes, then the lessee and not the lessor shall be liable under this section.

(c) If the vehicle is owned by a dealer; and at the time of the violation, the vehicle was being operated by or was under the control of any person on a trial run, and the dealer provides the Police Department with the name, address, and operator's license number of the person having the vehicle under his or her control on a trial run, then that person, and not the dealer, shall be liable under this section.

9.30 **PENALTY.** Except as otherwise specifically provided, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §25.04 of this Code of Ordinances. In addition to any penalty imposed for violation of §9.943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates §9.943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with §895.035, Wis. Stats.

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