

TITLE 9

OFFENSES AND NUISANCES

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CHAPTER 1

STATE STATUTES ADOPTED

Sec. 9-1-1	Offenses Against State Laws Subject to Forfeiture
Sec. 9-1-2	Offenses Against State Laws Regarding Sale To And Use And Possession of Tobacco Products By Persons Under 18 Years of Age
Sec. 9-1-3	Smoking Prohibited

SEC. 9-1-1 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 municipality provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Municipal Code.

167.10	Fireworks Regulated
175.25	Illegal Storage of Junked Vehicles
287.81	Littering
939.32	Attempt (to commit a felony or battery)

939.05	Parties to Crime
939.22	Words and Phrases Defined
940.42	Intimidation of Witness
941.10	Negligent Handling of Burning Materials
941.12(2) &	
941.12(3)	Interfering With or Failing to Assist in Fire Fighting
941.13	False Alarms and Interference with Fire Fighting
941.20(1)	Reckless Use of Weapon
941.23	Carrying Concealed Weapon
941.235	Carrying a Firearm in a Public Building
941.24	Possession of Switch Blade Knife
943.01(1)	Criminal Damage to Property
943.06	Molotov Cocktails
943.13	Criminal Trespass to Land
943.14	Criminal Trespass to Dwellings
943.20	Theft
943.34	Receiving Stolen Property
943.50	Retail Theft
943.70	Computer Crimes
944.20	Lewd and Lascivious Behavior
944.21	Lewd, Obscene or Indecent Matter, Pictures and Performances
944.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitted Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42	Escape
946.70	Personating Peace Officer
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.015	Bomb Scares
947.06	Unlawful Assemblies
951.01 -	

951.18 Crimes Against Animals

SEC. 9-1-2 OFFENSES AGAINST STATE LAWS REGARDING SALE TO AND USE AND POSSESSION OF TOBACCO PRODUCTS BY PERSONS UNDER 18 YEARS OF AGE

(a) The provisions of Section 938.983, Wis. Stats., relating to purchase or possession of tobacco products by persons under 18 years of age, are hereby adopted by reference.

(b) The provisions of Section 134.66, Wis. Stats., relating to sale or gift of cigarettes or tobacco products to person under 18 years of age, are hereby adopted by reference.

(c) Any person violating the terms of this ordinance shall be subject to a forfeiture of between \$50.00 and \$200.00, except as provided otherwise herein. If the person violating this ordinance has committed a previous violation within twelve months, the forfeiture shall be not less than \$200.00 nor more than \$500.00. Pursuant to Wisconsin Statutes Sec. 134.66(4), upon determining that a violation has occurred, the Municipal Court shall suspend any tobacco license or permit issued by the City to the violator as follows:

1. For not more than three days, if the Municipal Court finds that the person committed the violation within twelve months after committing one previous violation;
2. For not less than three days nor more than ten days, if the Municipal Court finds that the person committed the violation within twelve months after committing two other violations; or
3. Not less than fifteen days nor more than thirty days, if the Municipal Court finds that the person committed the violation within twelve months after committing three or more other violations

(d) Future amendments, revisions or modifications to the foregoing statutes are also adopted by reference.

SEC. 9-1-3 SMOKING PROHIBITED

- (a) DEFINITIONS. As used herein, to “smoke” means to carry a lighted cigar, cigarette,

pipe, or any other lighted smoking equipment. The term “smokeless tobacco” means any tobacco which is used by means other than smoking.

(a) **SMOKING PROHIBITED IN ENCLOSED SPACES.** The City of Two Rivers hereby adopts and incorporates by reference Section 101.123 of the Wisconsin Statutes, as amended from time to time, prohibiting smoking in enclosed places.

(b) **SMOKING ON SCHOOL PROPERTY PROHIBITED.** No person may smoke or use smokeless tobacco on any property owned or rented by, or under the control of, the Two Rivers Public School District, except that the school board may allow the use of tobacco products on premises owned by the school district and rented to another person for non-educational purposes. The City of Two Rivers hereby adopts and incorporates by reference Section 120.12(20) of the Wisconsin Statutes, as amended from time to time, prohibiting tobacco on school property.

(c) **CARELESS SMOKING PROHIBITED.** Any person who, by smoking or attempting to light or to smoke cigarettes, cigars, pipes, tobacco, or any other product in any manner, shall through carelessness, recklessness or negligence set fire to any building or contents thereof so as to endanger life or property in any way or to any extent, shall be guilty of a violation of this section.

(d) Any person violating the terms of this ordinance shall be subject to a forfeiture of between \$50.00 and \$200.00, except as provided otherwise herein.

CHAPTER 2

OFFENSES AGAINST PUBLIC SAFETY AND PEACE

Sec. 9-2-1	Discharging or Carrying Firearms and Guns Prohibited
Sec. 9-2-2	Throwing or Shooting of Arrows, Stones and Other Missiles Prohibited
Sec. 9-2-3	Obstructing Streets and Sidewalks Prohibited
Sec. 9-2-4	Loitering Prohibited
Sec. 9-2-5	Loud and Unnecessary Noises Prohibited
Sec. 9-2-6	Prohibited Conduct on Bridges
Sec. 9-2-7	Disorderly Conduct with a Motor Vehicle
Sec. 9-2-8	Disorderly Conduct - Defecating or Urinating in Public Places
Sec. 9-2-9	Interference With Custody of Child
Sec. 9-2-10	Truancy and Habitual Truancy
Sec. 9-2-11	Curfew Hours for Minors
Sec. 9-2-12	Possession of Tetrahydrocannabinols
Sec. 9-2-13	Possession of Drug Paraphernalia

SEC. 9-2-1 DISCHARGING OR CARRYING FIREARMS AND GUNS PROHIBITED

- (a) Except as otherwise stated in this Ordinance, no person shall fire or discharge any firearm, rifle, spring or air gun in the City.
- (b) No person shall discharge any firearm in the territory adjacent to the City in such manner that the discharge shall enter or fall within the City.
- (c) This ordinance shall not apply to a sheriff, police officer or their deputies acting in the scope of their duties and employment, or to such individuals when carrying firearms during off-duty hours, in accordance with State Statutes.
- (d) This ordinance shall not apply to wildlife management activities authorized by action of the City Council.
- (e) The Chief of Police may grant a permit to discharge any firearm or rifle to any adult

resident of the City or person or entity under contract with the City in connection with pest or wildlife extermination under controlled conditions, for a period of not more than thirty (30) days, or as authorized by the City Council.

(f) No person except a peace officer may go armed with a concealed or dangerous weapon except as provided in Wis. Stats. 175.60

(g) **FIREARMS IN PUBLIC BUILDINGS AND CITY VEHICLES**

(1) Pursuant to Wis. Stats. 943.13(1m)(c)4., no person shall enter or remain in any part of a building owned, occupied or controlled by the State or local government unit if the State or local government unit has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm.

(2) The City Manager shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the City of Two Rivers that will be effected by this ordinance. These signs will provide notice that no person is to enter or remain in any such building while carrying a firearm. Such signs shall be five inches by seven inches or larger.

(3) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police of any city, village or town, or the sheriff of any county to possess a firearm in any building under Wis. Stats. Sections 941.235 and 941.237, which are hereby adopted by reference. Notwithstanding Wis. Stats. 939.22(22), for the purpose of this paragraph, peace officer does not include a commissioned warden who is not a State certified commissioned warden.

(4) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis Stats. Sections 941.23 or 941.235.

(h) No person except a peace officer may go armed with a firearm or dangerous weapon in any city owned motor vehicle as defined in Wis. Stats. Section 340.01(35). Nothing in this subsection shall be construed to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police of any city, village or town, or the sheriff of any county to possess a firearm in any motor vehicle. Notwithstanding Wis. Stats. Section 939.22(22), for the purpose of this paragraph, peace officer does not include a commissioned warden who is not a State certified commissioned warden.

(i) Any person violating this ordinance shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00, unless such forfeiture exceeds the amount allowed to be imposed by the City under state law, in which case the forfeiture shall be that amount listed above.

(j) If any provision of this ordinance or its application to any person or circumstances be held invalid by any court having jurisdiction, that invalidity shall not effect other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

SEC. 9-2-2 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED

(a) No person shall throw or shoot any object, stone, snowball or other missile or projectile by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground, or other public place within the City or on or onto the property of another without the consent of the owner of said property.

(b) No person who is under the age of sixteen (16) shall shoot an arrow within the City limits unless accompanied by a parent or adult over the age of twenty one (21) years.

(c) No person shall shoot an arrow within the City limits under any circumstances unless said arrow is equipped with a target tip.

(d) Under no circumstances may a person discharge an arrow which crosses a property line.

(e) No person shall shoot an arrow within the City limits unless he is in compliance with subparagraphs (b), (c) and (d) and the circumstances meets the following condition:

(1) The arrow is discharged into an inanimate, stationary target or backstop which is located in a garage or similar enclosure.

(f) The Recreation Department, may, however, under proper supervision, conduct programs which would otherwise violate this section.

(g) Notwithstanding any other provision of this section to the contrary, the City Council may by resolution permit the use of bows and arrows within the City Limits for the purpose of removal of deer from the City. Such resolution may include such conditions and restrictions as the Council may deem necessary to protect the health, safety and welfare of the general public, and

residents and property owners of the City. Use of bows and arrows pursuant to such resolution shall remain subject to all applicable state laws and regulations, and to the consent of the owners of property on which any hunting takes place. Any such resolutions may be repealed, modified or superseded by subsequent resolution of the Council.

SEC. 9-2-3 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

SEC. 9-2-4 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 person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true, and if believed by the police or peace officer at the time, would have dispelled the alarm.

SEC. 9-2-5 LOUD AND UNNECESSARY NOISE PROHIBITED

(a) **LOUD AND UNNECESSARY NOISE PROHIBITED.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise.

(b) **TYPES OF LOUD AND UNNECESSARY NOISES.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

- (1) **Horns, Signaling Devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the City for longer than three seconds in any period of one minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
- (2) **Radios, Phonographs, Similar Devices.** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 PM and 7:00 AM in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
- (3) **Loudspeakers, Amplifiers for Advertising.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
- (4) **Animals, Birds.** The keeping of any animal or bird which by causing frequent or long continued unnecessary noise.
- (5) **Steam Whistles.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.
- (6) **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through

a muffler or other device which will effectively prevent loud or explosive noises therefrom.

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

(c) STATIONARY NOISE LIMITS.

- (1) Maximum Permissible Sound Levels.

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

<u>Zone</u>	<u>Noise Rating-Daytime</u>	<u>Noise Rating-Nighttime</u>
Residential	60 db	50 db
Business	70 db	70 db
All Other Zones	75 db	75 db

- (b) Ambient noise is the all encompassing noise associated with a given sources, usually being a composite of sounds with many source near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by five db in any octave band to be designated excessive.
 - (c) Pure tones and impulsive noises are factors. Five noise rating numbers shall be taken from the table in Subsection "a." above, if the subject noise consists primarily of a pure tone or if it is impulsive in character.
- (2) Construction Noise. Construction equipment in any zone may be operated between the hours of 7:00 AM to 7:00 PM provided that said equipment does not exceed a maximum sound pressure level of 80 db(A) measured at the property line of the location at which said equipment is in use.
 - (3) Noise in Residential Districts. In Residential Zones, the person in violation of this Section shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.
 - (4) Operation of Certain Equipment. Lawn mowers, chain saws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 AM and 9:00 PM unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
 - (5) Exemptions. Operation of emergency equipment shall be exempt from this Chapter. Snow-blowers not operated on a commercial basis shall be exempt

from this Chapter when used to gain access to a City street. Emergency equipment shall include ambulance, police, fire, snow removal, emergency government sirens, etc., necessary for the health, safety, and protection of the citizens of Two Rivers.

- (6) Methods of Measuring Noise.
 - (a) Equipment. Noise measurement shall be made with a sound level meter.
 - (b) Location of Noise Meter. Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from the walls, barriers, obstructions, and all other sound reflective surfaces.
- (7) Control of Nighttime Noise Emitted from Residential Air Conditioners.
 - (a) No person shall install, operate, or use any residential air-conditioner which creates a noise level in a sleeping room in any dwelling unit located on any adjacent premises in the excess of five decibels above the ambient noise level at the location being measured.
 - (b) Upon receiving a complaint, the Police Department will conduct a noise survey through the use of a sound level meter. The sound pressure level should be measured in a sleeping room in the complainant's premises with the sound level measuring microphone placed three (3) feet from an open window nearest to the source of the noise and not less than three (3) feet above the floor of the room in which the measurement is made.
- (8) Appeals. The City Manager may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Chapter for existing industries.

SEC. 9-2-6**PROHIBITED CONDUCT ON BRIDGES**

(a) **LOITERING OR DEFACING PROHIBITED.** No person shall stand, sit or loiter on any bridge or on its abutments or railings, nor shall any person deface any part of a bridge or its abutments or railings.

(b) **SWIMMING FROM BRIDGES PROHIBITED.** No person shall dive into or enter the water for the purpose of swimming from any bridge or any bridge pier, pile, approach or abutment within the City.

(c) **FISHING RESTRICTED.** No fishing is permitted off of bridges except where there is a public sidewalk, provided that pedestrian traffic shall not be restricted by such fishing activity.

SEC. 9-2-7 DISORDERLY CONDUCT WITH A MOTOR VEHICLE

No person shall on public, or private property located within the City by or through the use of a motor vehicle, motorcycle, snowmobile, or minibike, engage in conduct which, under the circumstances, tends to cause or to provoke a disturbance or annoy one or more persons, or engage in violent, abusive, unreasonably loud, or otherwise disorderly conduct, including, but not limited to, the unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving the engine, blowing the horn, causing the engine to backfire, or causing the vehicle while commencing to move or in motion to raise one or more of its wheels above the ground.

Whoever engages in conduct prohibited by this ordinance while in a public park of the City shall be subject to a forfeiture in the amount of \$200.00 for each offense.

SEC. 9-2-8 DISORDERLY CONDUCT - DEFECATING OR URINATING IN PUBLIC PLACES

It shall be unlawful for any person to defecate or to 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, stairways, or elevators of public or commercial buildings.

SEC. 9-2-9 INTERFERENCE WITH CUSTODY OF CHILD

(a) Except as provided under Chapter 48 of the Wisconsin Statutes, it shall be unlawful for any person eighteen (18) years of age or over, to entice away, take away, withhold, or harbor any child under the age of eighteen (18) from the parents, without the consent of the parents unless

custody has been granted by Court order to the person enticing, taking, withholding, or harboring the child.

(b) Any person violating this Section shall be subject to a forfeiture of not less than one hundred Dollars (\$100.00) nor more than five hundred dollars (\$500.00).

SEC. 9-2-10 TRUANCY AND HABITUAL TRUANCY

(a) PROHIBITION OF TRUANCY. A person under 18 years of age is prohibited from being a truant.

(1) DEFINITIONS. For the purposes of this Section:

(a) "Truant" shall mean a pupil who is absent from school without an acceptable excuse for all or part of any day in which school is held during a school semester.

(b) "Acceptable excuse" shall mean an acceptable excuse as defined in Sections 118.15 and 118.16 (4) of the Wisconsin Statutes

(2) Upon finding that a person under 18 years of age is a truant, the court shall enter an order making one or more of the following dispositions:

(a) An order for the person to attend school;

(b) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within twelve months of a previous violation, subject to Section 938.37 of the Wisconsin Statutes, and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during the 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.

(b) PROHIBITION OF HABITUAL TRUANCY. A person under 18 years of age is prohibited from being a habitual truant.

- (1) “Habitual truant” shall mean a pupil who is absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.
- (2) “Acceptable excuse” shall mean an acceptable excuse as defined in Sections 118.15 and 118.16 (4), Wisconsin Statutes.
- (3) PENALTY. Upon finding that a person under 18 years of age is a habitual truant, the court shall enter an order making one or more of the following dispositions:
 - (a) Suspension of the person’s operating privilege for not less than 30 days, nor more than one year. The court shall immediately take possession of any suspended license and forward it to the Department of Transportation, together with a notice stating the reason for and the duration of the suspension;
 - (b) An order for the person to participate in counseling or a supervised work program or other community service work as described in Section 938.34(5g) of the Wisconsin Statutes. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardians of the person, or both;
 - (c) An order for the person to remain at home except during the 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.
 - (d) An order for the person to attend an educational program as described in Section 938.34 (7d).
 - (e) An order for the Department of Work Force Development to revoke, under Section 103.72 Wisconsin Statutes, any permit under Section 103.70 of the Wisconsin Statutes, authorizing the employment of the person;

- (f) An order for the person to be placed in a Teen Court program as described in Section 938.342(1g) f);
- (g) An order for the person to attend school;
- (h) A forfeiture of not more than \$500.00 plus costs, subject to Section 938.37 of the Wisconsin Statutes. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both;
- (i) 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;
- (j) An order placing the person under formal or informal supervision, as described in Section 938.34(2) of the Wisconsin Statutes, for up to one year; and
- (k) 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.

(f) REFERENCE TO STATUTES. References to specific statutory sections whenever used in this Ordinance shall mean the official Wisconsin Statutes as of the time of enactment and passage of this Ordinance, as from time to time amended, modified, repealed or otherwise altered by the State Legislature.

(g) SEVERABILITY. If any section or part of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

SEC. 9-2-11 CURFEW HOURS FOR MINORS

- (a) DEFINITION. For the purposes of this section:
 - (1) Curfew Hours means:

- (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 A.M. of the following day; and
- (b) 12:00 A.M. until 5:00 A.M. on any Saturday or Sunday.

(2) Emergency means any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) Establishment means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) Guardian means:

- (a) A person who, under court order, is the guardian of the person of a minor or,
- (b) A public or private agency with whom a minor has been placed by a court.

(5) Minor means any person 17 years of age or younger.

(6) Operator means an individual, firm, association, partnership, or corporation, operating, managing, or conducting any establishment. The terms includes the members of partners of an association or partnership and the officers of a corporation.

(7) Parent means a person who is a natural parent, adopted parent, or step-parent of a natural person.

(8) Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, shops, parking lots, parks, and sidewalks (unless excluded under (b)(1)(e)).

(9) Remain means to:

- (a) Linger or stay; or
- (b) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) Serious bodily injury means injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member organ.

(b) Offenses:

- (1) A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.
- (2) A parent or guardian of a minor commits an offense if the parent or guardian knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- (3) The owner, operator, or any employee of an establishment commits an offense if the owner, operator, or any employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(c) Defenses.

- (1) It is a defense to prosecution under (b) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) In a motor vehicle involved in interstate travel;
 - (c) Engaged in any employment activity or going to or returning home from an employment activity, without any detour or stop;
 - (d) Involved in an emergency;
 - (e) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;

- (f) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Two Rivers, a civic organization, a religious organization, or other similar entity that takes responsibility for the minor or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity, supervised by adults and sponsored by the City of Two Rivers, a civic organization, or religious organization or another similar entity that takes responsibility for the minor;
 - (g) Exercising first amendment rights protected by the United States Constitution such as free exercise of religion, freedom of speech, and the right of assembly; or
 - (h) Married or had been married or had disabilities of minority removed in accordance with Wisconsin law.
- (2) It is a defense to prosecution under (b)(3) that the owner, operator, or employee of an establishment promptly notify the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(d) **Enforcement.** Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer has ascertained whether or not the apparent offender has been previously warned about violating the curfew ordinance and unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in (c) is present. Upon issuance of the first citation under this section, the law enforcement agency shall mail to the parent(s) or legal guardian of the minor a written notice advising the parent or legal guardian of the minor's arrest and also advising the parent or guardian that a second, or subsequent, violation will result in a citation being issued to the parent or guardian. Police officers may take into custody any minor who shall violate any provision of this chapter.

(e) **Parental Responsibility.** Subject to the exceptions set forth in (c) of this Chapter, it shall be unlawful for the parent or guardian of any person age 17 years or younger to knowingly or negligently by insufficient control to allow such minor to congregate, loiter, wander, or play in or upon any public place, between the hours of 11:00 P.M. and 5:00 A.M. of the following day, except on Friday nights and Saturday nights, when such restricted hours shall be from 12:00 A.M. to 5:00

A.M. The officer shall not issue a citation or make an arrest under this section unless the officer has ascertained that the minor is receiving his/her second citation, or subsequent citation, and a written notice of the minor's first citation had been mailed to the parent or guardian.

(f) Penalties:

- (1) A minor who violates a provision of this Chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine of \$30.00, plus penalty assessment, jail assessment, court costs and any other costs mandated by law.
- (2) A parent or guardian who violates a provision of this Chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$60.00, plus penalty assessment, jail assessment, court costs and any other costs mandated by law.

(g) Severability. If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SEC. 9-2-12 POSSESSION OF TETRAHYDROCANNABINOLS

(a) No person may possess or attempt to possess tetrahydrocannabinols, commonly known as THC, in any form, including but not limited to tetrahydrocannabinols that are contained in marijuana, obtained from marijuana, obtained from marijuana, or chemically synthesized, or any controlled substance analog of tetrahydrocannabinols, unless the person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her profession practice, or unless the person is otherwise authorized by state statute to possess the substance or the analog.

(b) This ordinance applies only to persons who do not have a previous conviction for possession of tetrahydrocannabinols or for any other drug related offense, and only if the quantity of tetrahydrocannabinols is less than 8 grams at the time that it is weighed by law enforcement.

(c) All provisions of Wisconsin Statutes Sections 961.43(3g), 961.50, and 938.344(2e), as revised or amended from time to time, are hereby incorporated by reference.

(d) A person who violates this ordinance is subject to a forfeiture of not less than \$50 nor more than \$1,000, and shall have their operating privileges suspended for not less than six (6) months nor more than five (5) years.

(e) A positive result for the presence of cannabinoids, using the police department's approved field test, shall be prima facie evidence of possession in this ordinance

SEC. 9-2-13 POSSESSION OF DRUG PARAPHERNALIA

(a) Drug Paraphernalia as used in this ordinance is defined as stated in Wisconsin Statutes Section 961.571, as revised or amended from time to time.

(b) No person may use, or possess with the primary intent to use, drug paraphernalia, to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, re-pack, store, contain, conceal, inject, ingest, inhale, or introduce into the human body, a controlled substance or controlled substance analog in violation of Wisconsin Statutes Chapter 961.

(c) This ordinance applies only to persons who do not have a previous conviction for possession of drug paraphernalia or any other drug related offense.

(d) All provisions of Wisconsin Statutes Sections 961.573(1) and (2), 961.50 and 938.344(2e), as revised or amended from time to time, are hereby incorporated by reference.

(e) A person who violates any provision of this ordinance is subject to a forfeiture of not less than \$50 nor more than \$500, and shall have their operating privileges suspended for not less than six (6) months nor more than five (5) years.

CHAPTER 3

OFFENSES AGAINST PROPERTY

Sec. 9-3-1	Destruction of Property Prohibited
Sec. 9-3-2	Disposal of Fish Entrails
Sec. 9-3-3	Theft of Library Materials
Sec. 9-3-4	Destruction of Noxious Weeds And Regulation of Height of Lawns and Weeds
Sec. 9-3-5	Use of Metal Detectors on Public Property
Sec. 9-3-6	Retail Fraud

SEC. 9-3-1 DESTRUCTION OF PROPERTY PROHIBITED

(a) No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the City, or its departments or to any private person without the consent of the owner or proper authority.

SEC. 9-3-2 DISPOSAL OF FISH ENTRAILS

No person shall dispose of fish, fish entrails or any part of any fish on any public property, other than in containers specially designed for fish entrails, or on any private property not owned by the person doing the disposing unless so authorized by the owner. No person shall dispose of garbage, organic matter, metal cans or other trash in containers for "fish entrails only."

SEC. 9-3-3 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. The Lester Public Library.
- (3) Library Material. Includes any book plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside,

manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics, belong to, on loan to or otherwise in the custody of the 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 penalized as provided in subsection (g).

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

(d) **DAMAGING MATERIAL PROHIBITED.** No person shall mar, deface or in any other way damage or mutilate any library material.

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

(f) **STATE STATUTES ADOPTED.** Section 943.60 Wis. Stats., is hereby adopted by reference.

(g) **PENALTY.** Any person who shall violate any provision of this Section shall be subject to the general penalty as provided in this Code.

**SEC. 9-3-4 DESTRUCTION OF NOXIOUS WEEDS AND
REGULATION OF HEIGHT OF LAWNS AND WEEDS**

(a) The City Manager shall annually on or before May 15th publish as required by state law a notice that every person is required by law to destroy all noxious weeds on lands in the City of Two Rivers which he owns, occupies or controls.

(b) If the owner or occupant shall neglect to destroy any weeds as required by such notice, then the Weed Commissioner of the City of Two Rivers, or his or her designee, shall give five days written notice by mail to the owner or occupant of any lands upon which the weeds shall be growing to the effect that the said Weed Commissioner or the designee of the Weed Commissioner after the expiration of the five day period will proceed to destroy or caused to be destroyed all such weeds growing upon said lands and the cost thereof will be assessed as a tax upon the lands upon which said weeds are located under the provisions of Sections 66.0407 and 66.0517 of the Wisconsin Statutes.

(c) Noxious weeds are those plants designated as noxious weeds in Section 66.047 of the Wisconsin Statutes as well as those plants which may be designated as noxious weeds by the City Council by resolution or ordinance after the effective date of this ordinance, and other rank growth.

(a) For purposes of this ordinance, the word "lawn" shall mean an area of ground primarily planted with grasses, including but not limited to turf grasses, blue grass, fescue, and ryegrass blends, whether situated adjacent to residential dwellings, or commercial, industrial or other structures, or in parks or vacant lots throughout the City, or elsewhere in the City of Two Rivers. The word "weeds" as used in this ordinance shall include, but not limited to, noxious weeds as defined in subsection (c) of this ordinance, nuisance weeds as defined in Section 23.235 of the Wisconsin Statutes, and weeds, such as dandelions, which commonly appear in lawns.

(b) All lawns shall be kept cut to a height not to exceed 8 inches. Noxious weeds and nuisance weeds as described in this Ordinance shall be destroyed as provided in subsection (a) of this Ordinance. If the owner of any property fails to maintain its lawn at a height not to exceed 8 inches, within five days of the mailing of written notice from the City demanding the same addressed to the owner at his last known address, the City may cause the lawn to be cut and the cost thereof shall be charged to the property as a special charge pursuant to Section 66.0627 of the Wisconsin Statutes.

(c) If the owner of property fails to comply with the notice referred to in subsection (a) or (d) of this Ordinance within five days of its mailing, such owner will be subject to a forfeiture of \$75.00. In the event such owner fails to comply with a subsequent notice mailed in the same calendar year, such owner will be subject to a forfeiture of \$150.00 as to each subsequent failure to comply with the notice.

SEC. 9-3-5 USE OF METAL DETECTORS ON PUBLIC PROPERTY.

Absent authorization by the City Manager, the use of metal detectors and digging for buried objects on City property, except beaches where no vegetation is present, is prohibited.

SEC. 9-3-6 RETAIL FRAUD

Whoever returns or attempts to return 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.

CHAPTER 4

OBSCENITY

Sec. 9-4-1	Obscene Literature, Materials, and Performances
Sec. 9-4-2	Exposing Minors to Harmful Materials
Sec. 9-4-3	Commercial Sexual Gratification
Sec. 9-4-4	Loitering for Purposes of Prostitution

SEC. 9-4-1 OBSCENE LITERATURE, MATERIALS, AND PERFORMANCES

(a) DEFINITIONS

- (1) Obscene. Material is obscene if:
 - (a) Its dominant theme taken as a whole appeals to a prurient interest in sex, and
 - (b) It is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matter, and
 - (c) It lacks serious literary, artistic, political or moral value.
- (2) Knowingly. A person acts knowingly if he has general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of the character and content of any materials described herein which is reasonably susceptible of examination.
- (3) Material. Any book, magazine or other newspaper or other printed or written material or any picture, drawing, photographic, motion picture, or other pictorial representation or any sculpture or other figure or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.

- (4) Person. Any individual, partnership, firm, association, corporation, or other legal entity.
 - (5) Performance. Any preview, play, show, skit, film, dance or other exhibition performed before an audience.
 - (6) Promote. To cause, permit, procure, counsel or assist.
 - (7) Service to Patrons. The provision of services to paying guests in establishments providing food, beverages, including, but not limited to, hostesses, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitresses and entertaining.
- (b) PROHIBITIONS. It shall be unlawful for any person knowingly:
- (1) To sell, loan for a monetary consideration, deliver or provide, any obscene writing, picture, record or other representation or embodiment of the obscene.
 - (2) To present or direct or participate in an obscene play, dance or performance or knowingly to permit the same on any premises owned or operated by him or under his control.
 - (3) To publish, exhibit, distribute, give away or otherwise make available any obscene material.
 - (4) To possess any obscene material for purposes of sale or other commercial dissemination.
 - (5) To sell, advertise or otherwise commercially disseminate material, whether or not obscene, by representing or suggesting that it is obscene.

SEC. 9-4-2 EXPOSING MINORS TO HARMFUL MATERIALS

- (a) DEFINITIONS. As used in this section:
- (1) Minor. Means any person under the age of eighteen (18) years.

- (2) Nudity. Means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- (3) Sexual Conduct. Is defined to be acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus, and acts of excretory function, lewd exhibition of the genitals especially in a stimulated condition and sexual relations between humans and animals.
- (4) Sexual Excitement. Means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (5) Sadomasochistic Abuse. Means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (6) Harmful to Minors. Means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (7) Knowingly. Means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
 - (a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant.

(b) The age of the minor, provided however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(8) Knowledge of the Minor's Age. Means:

(a) Knowledge or information that the person is a minor

(b) Reasons to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor

(b) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.

(c) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in (c)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(d) It shall be unlawful for any person knowingly to admit a minor whom he or she knows or has reason to believe is not his/her child or legal ward to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

SEC. 9-4-3**COMMERCIAL SEXUAL GRATIFICATION**

(a) No person or any legal entity shall offer, make available, permit or in any way participate in the touching of the genitals, pubic area, buttocks, anus or perineum of any person or of the breasts or vulva of a female when such touching can be reasonably construed as being for the purposes of sexual arousal or gratification under circumstances in which it is reasonably expected that money or other consideration will be received therefor.

(b) No person or any legal entity shall offer, make available, permit or in any way participate in the administration of any form of massage for money or other consideration when the genitals, pubic area, buttocks, anus, perineum, vulva or female breast of the administrator of the massage are not fully covered by opaque material.

SEC. 9-4-4**LOITERING FOR PURPOSES OF PROSTITUTION**

(a) No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, repeatedly beckons to, stops, or attempts to stop, or engages male or female passerby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(b) As use in this subsection:

- (1) **Public Place.** Is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public including those which serve food or drink, or provide entertainment, and the doorways and entrances in buildings or dwellings and the grounds enclosing them.
- (2) **"Known Prostitute or Panderer"** means a person who within one year previous to the date of arrest for violation of this section has within the knowledge of the arresting officer been convicted in a court of competent jurisdiction of an offense involving prostitution.

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CHAPTER 5

OFFENSES INVOLVING ALCOHOLIC BEVERAGES

Sec. 9-5-1 Outside Consumption

SEC. 9-5-1 OUTSIDE CONSUMPTION

(a) No person shall carry, or expose to view, any open container of malt beverages, intoxicating liquors, or other alcoholic beverages or drink from the same on any sidewalk within seventy-five (75) feet of an entrance to a tavern, or on any street, alley, public parking lot, park, parking lots or other public place or premises not licensed for the consumption of alcoholic beverages, except that this Section shall not apply to public parks outside of parking areas and City approved events.

(b) "Container" includes cans, bottles, cups, glasses and all other vessels which contain any alcoholic beverage. For purposes of this Section, a "public place" shall be construed to mean any location with the City which, at the time the person is apprehended, is open to access by persons not requiring specific permission of the owner to be at such location including, without exclusion by reason of this enumeration, all parking lots serving commercial establishments.

(c) In no event shall a private yard or residence in a residentially zoned district be construed to be a public place.

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CHAPTER 6

PUBLIC NUISANCES

Sec. 9-6-1	Public Nuisances Prohibited
Sec. 9-6-2	Definitions
Sec. 9-6-3	Responsibilities of Occupants
Sec. 9-6-4	Responsibilities of Owners
Sec. 9-6-5	Enforcement
Sec. 9-6-6	Public Nuisances Affecting Health
Sec. 9-6-7	Public Nuisances Affecting Peace and Safety
Sec. 9-6-8	Abatement of Public Nuisances
Sec. 9-6-9	Cost of Abatement
Sec. 9-6-10	Penalty

SEC. 9-6-1 PUBLIC NUISANCES PROHIBITED

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

SEC. 9-6-2 DEFINITIONS

(a) 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.

(b) Blighted premises as follows:

- (1) Premises existing within the City which are blighted because of faulty design or construction, failure to maintain them in a proper state of repair, improper management, or due to the accumulation thereon of junk, wood, brick, cement block or other unsightly debris, refrigerators, furnaces, appliances, machinery, or parts thereof, structurally unsound fences, and other items which depreciate property values and jeopardize or are detrimental to the health, safety, morals or welfare of the people of the City.

(2) Blighted premises contribute to the development of, or increase in disease, infant mortality, crime and juvenile delinquency; conditions that are dangerous to the public health, safety, morals and general welfare of the people; the conditions necessitate excessive disproportionate expenditure of public funds for public health, public safety, crime prevention, fire protection and other public services; the conditions cause a drain upon public revenue and impair the efficient and economical exercise of governmental functions in such areas.

(c) Dwelling. Any building or structure and attached appurtenances wholly or partly used or intended to be used by humans for living or sleeping.

(d) Dwelling Unit. Any habitable room or group of adjoining habitable rooms located within a dwelling or forming a single unit with facilities which are used or intended to be used for living, sleeping, cooking or eating meals.

(e) Extermination. Control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible material that may serve as their food by poisoning, spraying, fumigating, trapping or any other approved pest elimination method.

(f) Nuisance.

(1) Any public nuisance known in common law or in equity jurisprudence.

(2) Any attractive nuisance which may prove detrimental to children, whether in a building or upon an unoccupied lot. This includes abandoned wells, shafts, basements and excavation; or any abandoned refrigerators, furnaces, machinery or parts thereof, structurally unsound fences and structures; or any lumber, trash fences, debris or vegetation which may be hazardous for inquisitive minors.

(3) Whatever is dangerous to human life or is detrimental to health.

(4) Dwelling or non-dwelling structures which tend to depreciate property values and jeopardize the health, safety, morals or welfare of the people of the City due to faulty design or construction, or failure to maintain them in a proper state of repair, or improper management.

- (d) Occupant. Any person living, sleeping or eating, or having actual possession of a dwelling, dwelling unit or rooming unit.
- (e) Operator. Any person who has charge or care of a building or part thereof in which dwelling or rooming units are let.
- (f) Owner. Any person who alone or jointly or severally with others is the legally recorded holder of the title with or without actual possession thereof, or who has charge, care or control of any dwelling or dwelling unit as agent or owner. The term "Owner" under this Chapter shall also include the legally recorded holder of a land contract vendee interest.
- (g) Person. Any individual, firm, corporation, partnership or association.
- (h) Premises. Any lot, plot or parcel of land, and buildings thereon.

SEC. 9-6-3 RESPONSIBILITIES OF OCCUPANTS

- (a) To keep the exterior of the dwelling and non-dwelling structures and premises he controls and occupies in a clean, sanitary condition.
- (b) To dispose of rubbish and garbage in a clean, sanitary manner as prescribed by this Code.
- (c) To exterminate in the following cases:
 - (1) Single Dwelling. Extermination of any insects, rodents or other pests therein or on premises.
 - (2) Multiple Unit. Extermination of any insects, rodents or other pests if his unit is the only unit infested.
- (d) Whenever infestation is caused by the owner's failure to maintain the dwelling in a rodent-proof or reasonably insect-proof condition, the occupant is not responsible for extermination of any insects, rodents or other pests therein.
- (e) Rummage/Garage Sales

- (1) Rummage/Garage sales at any residential location shall be limited to not more than two (2) events per calendar year, with no one event exceeding four (4) consecutive days of operation. A permit is not required.
- (2) Rummage/Garage Sales Signs. One (1) temporary rummage/garage sale sign per lot with the owner's permission provided such sign is not erected more than twenty-four (24) hours prior to the sale and is removed when the sale is over, but in no case to exceed ninety-six (96) hours after the start of a sale. Rummage/garage sale signs shall not exceed three (3) feet in height and shall not exceed six (6) square feet in area.

SEC. 9-6-4 RESPONSIBILITIES OF OWNERS

- (a) To exterminate in the following cases:
 - (1) When infestation exists in two or more units of a multiple unit structure.
 - (2) When infestation exists in shared or public areas of a multiple unit structure.
 - (3) When infestation exists in a single unit of a multiple unit structure or in a single unit structure when infestation is due to failure of the owner to maintain the dwelling in a rodent-proof and reasonably insect-proof condition.
- (b) To perform the responsibilities of the occupant when premises are vacant.
- (c) No owner shall permit any building, structure or fence to exist on any premises which does not comply with the following requirements:
 - (1) Maintenance of Structures: Every foundation, exterior wall, roof, window, exterior door, basement hatchway, and every other entrance of every dwelling or non-dwelling structure shall be maintained to prevent the structure from becoming a harborage for rodents and shall be kept in a reasonably good state of maintenance and repair.
 - (2) Protection of Exterior Wood Surfaces. All exterior wood surfaces of all dwelling or non-dwelling structures shall be properly protected from the elements and against decay by paint or other approved protective coating applied in a workmanlike manner and maintained in a reasonable condition given normal standards of property maintenance.

- (3) Maintenance of Fences. Every fence shall be kept in a reasonably good state of repair or shall be removed.
- (4) Pest Control. Every premises shall be maintained to prevent it becoming a harborage for rodents and insect pests. Whenever infestation with rodents or pests exists in any premises upon which no structure or non-dwelling structures are located, extermination thereof shall be the responsibility of the owner.

(d) General Cleanliness. There shall be no accumulation or storage of junk, wood, brick, cement block or other unsightly debris, automobile parts, truck parts, tractors, refrigerators, furnaces, appliances, machinery or parts thereof, which tends to depreciates property values or create a nuisance or hazard on any lot pr parcel of land within the City except as may be allowed by permit approved by the Council, or except when such materials are properly housed out of public view.

(e) Open off-street storage of automobiles, trucks, all-terrain vehicles, boats, motorcycles, snowmobiles and utility trailers are permitted in the rear and, interior side yards of any lot used primarily for residential purposes provided such items are owned by the property owner or occupants of the premises. See Section 8-4-1(c) and (d) for regulations related to storage on private property of dismantled, wrecked, unregistered, un-licensed, inoperable or abandoned vehicles.

(f) Rummage/Garage Sales.

- (1) Rummage/Garage sales at any residential location shall be limited to no more than two (2) events per calendar year, with no one event exceeding four (4) consecutive days of operation. A permit is not required.
- (2) Rummage/Garage Sale Signs. One (1) temporary rummage/garage sale sign per lot with the owner's permission provided such sign is not erected more than twenty-four (24) hours prior to the sale and is removed when the sale is over, but in no case to exceed ninety-six (96) hours after the start of a sale. Rummage/garage sale signs shall not exceed three (3) feet in height and shall not exceed six (6) square feet in area.

SEC. 9-6-5 ENFORCEMENT

(a) Whenever the Chief of Police, the Chief of the Fire Department, the Building Inspector, the Zoning Administrator or the Health Officer determines that there are reasonable grounds to believe that there has been a violation of any provision which affects the safety of any occupants or the safety of the general public, he shall give notice of such alleged violation to the person therefor and to any known agent as provided herein.

(b) The notice shall:

- (1) Be in writing.
- (2) Include the reasons it is being issued
- (3) Allow a reasonable time for the performance of any act required.
- (4) Be served upon the owner, his agent or the occupant, provided the notice shall be deemed to be properly served upon the owner, agent or occupant, if a copy is served upon him personally, sent by certified mail to his last known address or if a copy thereof is posted in a conspicuous place on the premises affected by the notice, or if he is served with such notice by any other method authorized or required under State law.
- (5) The notice shall contain an outline of remedial action which, if taken, will effect compliance with the provision of this Chapter.

SEC. 9-6-6 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 9-6-2;

(a) **ADULTERATED FOOD.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(b) **UNBURIED CARCASSES.** Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(c) **BREEDING PLACES FOR VERMIN, ETC.** Accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing materials, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(d) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.

(e) **PRIVY VAULTS AND GARBAGE CANS.** Privy vaults and garbage cans which are not fly-tight.

(f) **NOXIOUS WEEDS.** All noxious weeds as described in Section 9-3-4 of the Municipal Code and other rank growth of vegetation.

(g) **AIR POLLUTION.** The emission or escape into the open air of such quantities of smoke, ash, dust, soot, cinders, acid or other fumes, dirt or other material or noxious gases in such place or manner as to cause injury, detriment or nuisance to any appreciable number of persons within the City.

(h) **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.

(i) **NOXIOUS ODORS, ETC.** Any use of property, substances or things within the City emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical sense of ordinary person which annoy, discomfort, injury or inconvenience the health of any appreciable number of persons within the City.

(j) **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.

(k) **VIBRATION, ODOR, HEAT, GLARE, RADIOACTIVITY, TOXIC OR NOXIOUS MATTER.** No effect beyond lot lines of any vibration, odor, heat, glare, radioactivity, toxic or noxious matter shall be permitted in such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.

(l) **DUST, FLY ASH OR SMOKE.** See Wisconsin Administrative Code provisions for dust, fly ash or smoke.

SEC. 9-6-7 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting peace or safety coming within the definition of Section 9-6-2;

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

(b) **ILLEGAL BUILDINGS.** All buildings erected, repaired or altered in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures within the City.

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

(d) **DILAPIDATED STRUCTURES.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use, and all buildings or structures which do not comply with the provisions of the Code.

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

(f) **FLAMMABLE LIQUIDS.** Repeated or continuous violations of the ordinances of the City or laws of the State of Wisconsin relating to the storage of flammable liquids.

(g) **OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.** No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other

dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

(h) **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. 9-6-8 ABATEMENT OF PUBLIC NUISANCES

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

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

(c) **ABATEMENT AFTER NOTICE.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) above.

(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.

(e) **COURT ORDER.** Except when necessary under subsection (b), 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.

SEC. 9-6-9 COST OF ABATEMENT

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

SEC. 9-6-10 PENALTY

Any person who shall violate any provision of this Chapter or permit or cause a public nuisance shall be subject to the general penalty provisions of this Municipal Code.

CHAPTER 7

CHRONIC NUISANCE PROHIBITED

Sec. 9-7-1 Chronic Nuisance Prohibited

SEC. 9-7-1 CHRONIC NUISANCE PROHIBITED

(a) DEFINITIONS

- (1) Authorized Official. An individual designated by the Chief of Police to exercise the authority of this ordinance.
- (2) Enforcement Action. Arrest or the issuance of a citation.
- (3) Nuisance Activity. Any of the following activities, behaviors, or conduct occurring on a premises:
 - (a) An act of Harassment, as defined in ss947.013, Wis. Stats.
 - (b) Disorderly Conduct, as defined in ss947.01, Wis. Stats and/or Title 9, of Two Rivers Municipal Code.
 - (c) Battery, Substantial Batter, or Aggravated Batter, as defined in ss940.19, Wis. Stats.
 - (d) Lewd and Lascivious Behavior, as defined in ss944.20 Wis. Stats.
 - (e) Prostitution, as defined in ss944.30, Wis. Stats.
 - (f) Theft, as defined in ss943.20, Wis. Stats
 - (g) Receiving Stolen Property, as defined in ss943.34, Wis. Stats.
 - (h) Arson, as defined in ss943.02, Wis. Stats.
 - (i) Possession, Manufacture, Delivery of a Controlled Substance or related offenses, as defined in Ch 961, Wis. Stats.
 - (j) Gambling, as defined in ss945.02, Wis. Stats.
 - (k) Animal Violations, as defined in Title 5, Two Rivers Municipal Code.

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(c) **CHRONIC NUISANCE PREMISES NOTICE (CNP Notice).** Whenever the Chief of Police determines that three or more nuisance activities resulting in enforcement action have occurred at a premise during a 12-month period, the Chief may notify the premises owner in writing that the subject location has been deemed a chronic nuisance. In calculating the requisite nuisance activity, the Chief may count separate qualifying nuisance incidents resulting in enforcement action occurring on the same day (as long as they are distinct in time) or different days. The following shall not be considered nuisance activities subject to this ordinance except as expressly provided:

- (1) Activities that were reported to the Police or other City departments by the premises owner or on-site premises manager shall not be included as nuisance activities.
- (2) Sec. 968.075, Wis. Stats., broadly defines “domestic abuse”. Therefore, in reaching a determination that a premises is a chronic nuisance premises, activities included as nuisance activities unless the incidents have been reviewed by the Chief of Police and the City Attorney and a determination is made that, based upon the specific facts of each incident, the activities should be deemed nuisance activities. In determining whether to include such activities, the Chief of Police and Office of the City Attorney shall consider the strong public policy in favor of domestic victims reporting alleged abuses, and this ordinance shall not operate to discourage such reports.

The Chronic Nuisance Premises Notice (“CNP Notice”) shall be deemed delivered if sent either by first class mail to the premises owner’s last known address of record as identified by the records of the City Assessor or delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of such notice is prominently posted at the premises owner’s usual place of abode, delivered to a competent member of the owner’s family at least 14 years of age or older currently residing there and who shall be informed of the contents of the CNP Notice. The CNP Notice shall contain the following information:

- (1) Street address, parcel number or a legal description sufficient to identify the premises.

- (2) A concise statement, including a description of the relevant activities supporting the determination that the premise is a chronic nuisance premises.
- (3) A statement that the owner shall immediately notify the authorized official of any change in address to ensure receipt of future notices.
- (4) A statement that the actual costs of future enforcement may be assessed as a special charge against the premises.
- (5) A statement that the owner shall, within ten (10) days of the date the CNP Notice is mailed, contact the authorized official and schedule a meeting with that official to develop a written action plan to abate the nuisance, or notify the official in writing of the intention to appeal.
- (6) A statement that the premises owner shall at all times comply with the fair housing requirements.
- (7) A statement that the premises owner, in addition to actual abatement costs, may be subject to a forfeiture action with a penalty of not less than two hundred dollars (\$200) nor more than five thousand dollars (\$5,000) for each day a chronic nuisance is allowed to continue.

(d) **OWNER ACTION PLAN.** Premise owners shall be counseled regarding nuisance abatement methods and strategies and shall be encouraged to submit a comprehensive nuisance abatement action plan that considers alternatives to eviction in situations where eviction is not the sole remedy available to abate the nuisance activity or is not available as a remedy. The plan is acceptable if it can reasonably be expected to result in abatement of the nuisance activities described in the CNP Notice within sixty (60) days.

- (1) If the owner responds to the CNP Notice and with a written action plan to abate the nuisance, the authorized official may accept, reject or work with the owner to modify the action plan. If the premises owner meets with the authorized official and presents an acceptable abatement action plan and implements the terms of the action plan, the authorized official will delay further enforcement of this ordinance, including cost recovery.
- (2) If the premises owner ceases to cooperate with the efforts to abate the nuisance activities, the authorized official may reinstitute enforcement of this ordinance and the premises owner shall be sent a letter advising of the

relief is available by state statute.

(i) PENALTIES. Any person who violates any provision of this ordinance will be subject to a forfeiture of not less than \$200 nor more than \$5,000 plus court costs; and shall be assessed the costs of enforcement of this section in full or part. Such costs shall be billed to the premises owner by invoice sent by regular mail and must be paid within thirty (30) days of the date on the invoice. Any unpaid invoice shall result in a \$100 administrative fee and a lien on such premises that may be assessed and collected as a special charge pursuant to ss.66.0627, Wis. Stats.

Each subsequent incident of enforcement action for nuisance activity after a premises has been deemed to be a chronic nuisance premises shall constitute a separate offense and penalties will continue to be assessed until the nuisance is abated.

(j) SUSPENSION OF ENFORCEMENT COSTS. If after the receipt of a billing notice from the Finance Department, the premises owner develops an acceptable action plan and implements the plan, the authorized official may suspend further enforcement of this ordinance. The premises owner shall remain responsible for any enforcement costs incurred prior to the premises owner's submitting an action plan, including the administrative fee. If the premises owner ceases to cooperate with the efforts to abate the nuisance activities after a suspension of costs, enforcement costs will be reinstated and immediately due. The owner shall be notified, in writing, by the Finance Department of any suspension or reinstatement of enforcement costs.

(k) SEVERABILITY. The provisions of any part of this section are severable. If any provision or subsection hereof or the application thereof to any person or circumstances is held invalid, the other provisions, subsections and applications of such ordinance to other persons or circumstances shall not be affected thereby. It is declared to be the intent of this section that the same would have been adopted had such invalid provisions, if any, not been included herein.

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