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**Orderly Conduct**  
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## **CHAPTER 11**

### **Orderly Conduct**

#### **11.01.000 OFFENSES ENDANGERING PUBLIC SAFETY.**

##### **11.01.010 Discharge of Weapons Prohibited; Exceptions.**

- A. Definitions. In this Section and in § 11.01.020 of the Municipal Code:
1. “Airgun” means a weapon which expels a projectile by the expansion of compressed air or other gas, including, but not limited to air pistols, air rifles, BB guns and pellet guns.
  2. “Firearm” means a weapon that acts by force of gunpowder to fire a projectile.
  3. "Handgun” means any weapon designed or redesigned, or made or remade, and intended to be fired while held in one hand and to use the energy of an explosive to expel a projectile through a smooth or rifled bore.
  4. “Spring gun” means a weapon which expels a projectile by means of a spring mechanism that is manually cocked for each shot fired by the gun.
- B. Discharge Prohibited. Except as provided in subsection C., no person shall discharge any firearm, airgun, spring gun, bow and arrow, slingshot, or other dangerous weapon as defined in § 939.22(10), Wis. Stats., within the City.
- C. Exceptions. This Section shall not apply to a sheriff, constable, law enforcement officer or their deputies while performing their official duties, nor to those areas within the City which may be designated by the Parks and Recreation Board and the Police Department for the discharge of weapons as part of a specific supervised sport or activity, nor to the discharge of a weapon in circumstances where the person’s conduct was justified or, had it been subject to a criminal penalty, would have been subject to a defense of privilege as described in § 939.45, Wis. Stats.

##### **11.01.20 Firearms and Other Weapons in Public Buildings Prohibited; Exceptions.**

- A. Weapons Prohibited. Pursuant to § 943.13(1m)(c) 4., Wis. Stats., it shall be unlawful for any person to carry a firearm or other weapon, including but not limited to a handgun, electric weapon, knife or billy club, into any buildings owned, leased, occupied, managed or controlled by the State or a local governmental unit, or any of its or their agencies, or to enter or remain in any part of such public buildings while carrying a firearm or other weapon, if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or other weapon.

- B. Posting of Signs. The City Administrator shall cause appropriate signs to be posted at all entrances to all buildings or portions of a building owned, leased, occupied, managed or controlled by the City providing notice that no person is to enter or remain in any such public building while carrying a firearm or other weapon. Such signs shall be five inches by seven inches or larger. Signs prohibiting the carrying of firearms and other weapons shall be posted in a prominent place so as to be visible prior to entering the building. The City Administrator shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building.
- C. Exceptions. This Section shall not apply to a law enforcement officer, peace officer, armed forces or military personnel armed in the line of duty, or any person duly authorized by the Chief of Police to possess a firearm in any public building, provided that such authorization is in writing. Notwithstanding § 939.22(22), Wis. Stats., for purposes of this subsection “peace officer” does not include a commission warden who is not a state-certified commission warden.
- D. Nothing in this Section shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to §§ 941.23 or 941.235, Wis. Stats.
- E. Security Review. A security review of city buildings shall be conducted by the City Administrator and Chief of Police annually, and a written report thereof shall be provided to the Common Council.

**11.01.030 Sale and Discharge of Fireworks.** Except that as provided in §167.10 (2) Wisconsin Statutes, it shall be unlawful within the limits of the City for any person to sell, expose or offer for sale, use, keep or discharge, or to explode any firecracker, bottle rocket, cherry bomb, colored smoke bomb, toy cap, blank cartridge, toy pistol or cannon in which explosives are used, contrivances using explosive caps or cartridges, sparklers, display wheels, the type of balloon which requires fire underneath to propel the same, firecrackers, torpedoes, sky rockets, Roman candles, aerial salutes, American or Chinese bombs or other fireworks of like construction, or any other fireworks containing any explosives of flammable compound, or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxylates, sulphides of lead, barium antimony, arsenic, mercury, nitroglycerine, phosphorous, or any compound containing any of the same or other explosives.

**11.01.040 Burning of Grass and Trash.** A. No person shall kindle any grass fire within the City without first securing a written permit from the Fire Department.

B. No person shall kindle or cause to be kindled any fire in or upon any street, alley, public way, park, or any public or private ground within the City unless the same be confined in a waste burner approved by the Fire Department, and for which a permit has been issued by the Fire Department. The waste burner shall not be located within 15 feet

of any building or structure and shall be so positioned that there is no direct exposure from sparks to buildings, wood fences and combustible materials. The burners shall be located so as not to create a nuisance by reason of their smoke.

**11.01.050 Skateboards and Other Play Vehicles Regulated.** A. Except for law enforcement officers engaged in the performance of their duties, no person shall ride, operate, push or travel on a bicycle, in-line skates, skate board, roller skates, roller skis or other play vehicle, as defined in sec. 340.01, Stats., in any of the following areas:

1. On any sidewalk within the downtown business district described as follows: an area bounded on the south by Chestnut Street as though extended east to Lake Michigan; on the north by Jackson Street; on the west by Milwaukee Street; and on the east by Lake Michigan. The boundaries shall include the sidewalk on both sides of said streets.
2. On any wooden boardwalk leading to, adjacent to or within the Port Washington Marina or harbor facility described as follows: an area bounded on the south by Chestnut Street as though extended east to Lake Michigan; on the north by Jackson Street; on the west by Harborview Lane; and on the east by Lake Michigan. The Boundaries shall include both sides of all wharves, piers, slips and docks within said area.

B. No person shall ride, operate, push or travel on in-line skates, a skate board, roller skates, roller skis or other play vehicle, as defined in sec. 340.01, Stats., in any public parking lot.

**11.02.000 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.**

**11.02.010 Disorderly Conduct Prohibited.** No person shall within the City:

1. In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonable loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb any other person or persons.
2. Intentionally cause, provoke, or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

**11.02.020 Drunkness.** No person shall within the City be habitually drunk or intoxicated so as to disturb the good order and quiet of the City or be found in any place within the City in such a state of intoxication that he is unable to care for his own safety or for the safety of others.

**11.02.030 Assault and Battery.** No person shall within the City commit an assault or battery, or both, upon another person.

**11.02.040 Loud and Unnecessary Noise Prohibited.** No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private residence.

**11.02.050 False Fire Alarms Prohibited.** No person shall give or send or cause to be given or send in any manner any alarm of fire which he knows to be false.

**11.02.060 Resisting or Obstructing Officer.** (1) No person shall knowingly resist or obstruct an officer while such officer is doing any act in his or her official capacity and with lawful authority. (2) In this section: (a) "Obstructs" includes, without limitation, knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty during the service of any summons or civil process. (b) "Officer" means police officer or other public officer or public employee having the authority to by virtue of the officer's or employee's office or employment to take another into custody.

**11.02.70 Unlawful Assemblies.** A. (Repealed 9/19/95)

B. 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.

**11.02.080 Curfew in Public Areas.** No person shall loiter in or about any park, parkway, school ground or other public ground or place between 10:00 p.m. and 6:00 a.m., except in Rotary Park located at the east end of East Grand Avenue, which no person shall loiter in or about between 11:00 p.m. and 6:00 a.m.

**11.02.090 Bowling Alleys and Pool and Billiard Halls; Closing Hours.** No owner or operator of a bowling alley or pool or billiard hall shall permit the same to remain open between 1:00 a.m. and 8:00 a.m.

**11.02.100 Distribution of Handbills.**

A. Handbill Defined: "Handbill" includes any printed or written advertising matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, paper, booklet, or any other printed matter of literature.

B. Restrictions: No person shall:

1. Place any handbill in or on any public street, alley, park, ground or other public place, provided this provision shall not prohibit the distributing of a handbill to any person willing to accept the same.
2. Place any handbill in or on any vehicle unless the owner or occupant is present and accepts such handbill.
3. Distribute any handbill upon private property without the consent of the owner or occupant thereof.

4. Distribute any handbill upon property wherein it is indicated by posting that handbills are not to be distributed.
5. Distribute any handbill between 5:00 p.m. and 8:00 a.m.
6. Distribute handbills in such a manner as to impede the free flow of traffic upon a street or sidewalk.
7. In distributing handbills, molest or annoy any individual, group or gathering.

C. Exception. This section shall not apply to messenger service or to the distribution of United States mail or telegram or to the delivery of a handbill to any person requesting the same.

**11.02.110 Second Hand Dealers.** Every dealer in used or second hand guns, watches and electric motors shall keep a record of each such purchase, with the name and address of the seller, the kind and quantity purchased, the serial number of the item purchased and the date of the transaction, which record shall be open to inspection by a police officer at any time. No such items shall be purchased from a person under the age of 16 years without the written consent of his parent or guardian.

**11.02.120 Regulation of Dogs and Cats.** A. Running at large prohibited. No owner or other person who keeps, harbors or feeds any dog shall permit such dog to be on any public property in the City or on any private property in the City without the owner's permission when such dog is not secured by a leash, chain or rope in control of any person, or confined within a fenced enclosure. No owner or other person who keeps, harbors or feeds any cat shall permit such cat to be off the premises of the cat's owner or other person who keeps, harbors or feeds a cat and not under the control of some person, either by leash, or otherwise. Any licensed dog or cat running at large contrary to this section may be apprehended by a police officer and the police officer shall confine such dog or cat. The owner of any dog or cat, or any person who harbors, keeps or feeds any dog or cat, so confined may reclaim the same upon payment of all costs and charges incurred by the City in apprehending and keeping said dog or cat. Every dog or cat so apprehended shall be kept for up to three (3) days, and if not reclaimed within that time by the owner, such dog or cat may be disposed of in a humane manner.

B. Unlicensed dogs and cats. Members of the police force or any other person appointed for that purpose, may humanely dispose of in a summary manner, all licensed dogs or cats running at large, provided, however, that any such disposals shall be done in a proper place and manner.

C. Vicious Dogs. No person shall knowingly keep or harbor a vicious dog within the City. "Vicious Dog", as used in this section means a dog that may suddenly assault a person or his property while he is peacefully walking or riding on the public streets or while lawfully on the premises of the owner or keeper of such dog.

D. Barking Dogs. No person shall harbor any dogs or any other animals within his care or custody which shall continuously bark or create a continuous or intermittent noise or

disturbance, or allow such animals to make any unusual or unnecessary noise to the disturbance of the neighborhood, or to people passing upon the streets or sidewalks.

E. Mayor May Order Dogs Confined. Whenever the safety of the public shall require, the Mayor by notice published in the official paper of the City, shall order that for a period of 20 days from and after the date of the notice, no dogs shall be permitted to go abroad any of the streets, lanes, alleys, or public places in the City without being properly muzzled with a secure muzzle or being led by a chain or other secure fastening.

F. Dogs or Cats Infected with Rabies: 1. Any police officer, health officer or other person authorized, may kill or impound any dog or cat which is believed, from the appearance or conduct of such dog or cat, to be infected with a disease known as rabies.

2. Any person who shall suspect that any dog or cat is infected with rabies shall report such suspicion to the police or health authorities, describing the dog or cat and giving the name of the owner, if known. Any such dog or cat, shall, upon the demand of any police or health officer, or other authorized person, be delivered to such police officer or authorized person. If upon examination by the health authorities, the dog or cat shall prove in fact to be infected with such disease, the dog or cat may be killed by any authorized person.

3. No person shall knowingly harbor or keep any dog or cat infected with rabies or any dog or cat known to have been bitten by an animal known to have been infected with rabies, or shall fail to report to the police or health authorities, the existence of a dog or cat which such person knows to be infected with rabies.

G. Dog Which Bites Persons. Every owner or keeper of a dog and every other person who knows that a dog has bitten any person shall immediately in writing report such fact to a police officer or the Health Officer, and such owner or keeper shall immediately confine said dog for a period of at least 14 days thereafter and shall not release such dog except with the written approval of the Health Officer. Any such dog shall be surrendered to the police or Health Officer upon demand.

H. No person shall keep, maintain, or harbor more than two dogs and two cats in any apartment, residence, household, yard or place of business, except where allowed by the Zoning Ordinances.

I. Fecal matter. No person shall walk or allow a dog or cat, or other permitted animal, on any public or private property other than the premises of the animal owner or said person in control of the animal, without carrying or having in his or her possession a scoop, bag, or other items designed to pick up and remove animal fecal material; and such person shall remove any deposited fecal material immediately after it has been deposited by said animal; and said person shall not dispose of any such fecal material on any property other than his or her own property.

J. Rabies Vaccination Required. It shall be unlawful for any person to keep a dog or a cat in the City which is over five (5) months of age and which has not received a rabies vaccination, as defined by §95.21 (2), Wis. Stats. A dog shall be vaccinated as set forth in

§95.21 (2), Wis. Stats. A cat shall be vaccinated every 24 months, and all other animals kept as pets and susceptible to rabies shall be vaccinated periodically as certified by a licensed veterinarian. No dog or cat license shall be issued until a certificate of rabies vaccination, issued by a veterinarian, has been presented. A rabies vaccination tag shall be attached to the collar of all licensed dogs and cats, at all times, except as set forth in §95.21 (2) (f), Wis. Stats.

Maintenance in keeping of dogs and cats contrary to this Section shall be deemed a public nuisance and subject to enforcement under Chapter 12 of the Code of Ordinances, in addition to such other penalties as are set forth herein.

A time limit of three (3) months is allowed for litters.

**11.02.130 Animals Running at Large.** No person shall permit any animal owned by him or under his control or in his possession to run at large. Paragraph (11.02.120 A) shall govern in determining whether an animal is at large.

**11.02.140 Cruelty to Animals.** No person shall treat animals cruelly or injure or destroy birds, bird nests or animals except birds and animals not protected by Chapter 29, Wis. Stats.

**11.02.150 Animals Prohibited at Public Festivals; Exceptions; Penalties.**

A. Purpose. The purpose of this section is to protect and promote the public comfort, health, safety and welfare. The Common Council determines that the presence of animals upon public grounds or public ways during public festivals may result in animals approaching, chasing or startling people in a menacing manner or apparent attitude of attack without provocation, and may result in provoked or unprovoked animal bites or other bodily harm to persons, and may result in damage to property, which actions are deemed harmful to the comfort, health, safety or welfare of citizens and the community, and, therefore, must be regulated.

B. Definitions. When used in this section, the following terms shall have the following specific meanings, except where the context clearly indicates a different meaning:

1. Animal - Any amphibian, bird, mammal or reptile, whether male or female, sexed or neutered, domesticated or wild, but excluding humans.
2. Owner - Any person keeping, harboring or permitting any animal to habitually be or remain on, or be lodged or fed within, such person's house, yard or premises. This term shall not apply to veterinarians or kennel operators who temporarily maintain on their premises animals owned by others.

3. Farmer's market – A market, usually out-of-doors, held on public grounds or a public way, where farmers and vendors sell fresh produce, flowers, handmade goods, prepared foods, and other products directly to the public.
4. Police dog - Any dog owned by a federal, state or municipal government, or an agency, department or unit thereof and used by law enforcement officers for law enforcement functions, while such dog is actively involved in law enforcement activities.
5. Public festival - Any planned, temporary celebration, entertainment or program held on any public grounds or public way within the City, the boundaries of which are specifically designated and posted by order of the Common Council, including parades, processions and festivals conducted by any association, group, organization or person, permitted by the City as a special event, and open to the public generally. A farmer's market is not deemed a public festival for purposes of this ordinance.
6. Public grounds - Any premises within the City owned or controlled by the City, county or state, or any agency, board, department or instrumentality thereof, and dedicated or reserved for use by the public generally, including, but not limited to parks, public buildings and the premises appurtenant thereto.
7. Public way - Any public alley, highway, parking lot, parkway, sidewalk, street or right-of-way within the City, acquired, condemned, created, dedicated, or reserved for use by the public generally for vehicular or pedestrian purposes.
8. Service animal - Any guide dog, signal dog, or other animal which is a "service animal" as defined in the Code of Federal Regulations for the Americans with Disabilities Act of 1990 (28 C.F.R. §36.104), individually trained to do work or perform tasks for the benefit of an individual with a disability, while such animal is accompanied by the person with a disability, and provided the presence of such animal does not pose a direct threat to the health or safety of others.

C. Prohibition. Except as provided in subsection D hereof, no animal shall be allowed upon any public grounds or public way designated for use as part of a public festival held within the City, and no owner, or person having care, custody or control of an animal shall cause or permit the animal to enter or remain upon such public festival grounds or public way.

D. Exceptions. This section shall not apply to: police dogs or service animals; animals which are assembled for purposes of or while actively participating in a

parade; or animals which are within such areas of public festival grounds or public ways as have been specifically designated by the Common Council for demonstrations by or the showing of animals.

E. Penalties. Any person convicted of violating any provisions of this section shall be subject to penalty as provided in sec. 25.04.010, Municipal Code. Such penalty shall be in addition to any other relief or remedies to which the City may be entitled.

**11.02.160 Misuse of Emergency Services Number (911) Prohibited.**

- A. Misuse Prohibited. No person shall utilize the E911 emergency telephone number system for any purpose other than to report an emergency.
- B. It shall be unlawful to report an alleged emergency knowing that the fact situation which he or she reports does not exist.
- C. An “emergency” under this section exists when the person reasonably believes that the immediate response by public safety personnel is essential due to the risk or actual occupancy of:
  - 1. Death or great bodily harm.
  - 2. Property damage.
  - 3. Any other situation which mandates the immediate response of public safety personnel.
- D. Penalty. Any person violating this section shall, upon conviction, be subject to a forfeiture of not more than \$200.00, together with the costs of prosecution.

**11.03.000 OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY.**

**11.03.010 Gambling, Lotteries, Fraudulent Devices and Practices Prohibited.**

- A. Definitions Under State Law Adopted. All definitions contained in sec. 945.01 of the Wisconsin Statutes defining “bet,” “bookmaking,” “gambling machine,” “gambling place,” “lottery,” “consideration” and “wire communication facility” are hereby adopted and by reference made a part of this ordinance as if fully set forth herein.
- B. Provisions of State Law Adopted. All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the City. Without limitation, the following provisions of the Wisconsin Statutes (1999-2000) for which the penalty is a forfeiture and/or the seizure of anything of value or anything devised solely for or found in actual use for gambling are hereby adopted and by reference made a part of this ordinance as if fully set forth herein, and as such statutes may be altered, amended, renumbered or recreated in any manner whatsoever after the effective date of this ordinance:

945.02            (Gambling)

- 945.03 (Commercial gambling)
- 945.035 (Certain slot machines on licensed premises)
- 945.04 (Permitting premises to be used for commercial gambling)
- 945.05 (Dealing in gambling devices)
- 945.07 (Gambling by participants in contest)
- 945.08 (Bribery of participant in contest)
- 945.12 (Endless sales chains)

C. Procedure. The procedure for citation, pleading, initial appearance, stipulation of guilt, deposit, substitution of municipal judge, discovery, prosecution, trial judgment, relief from judgment, enforcement of judgment and appeal for cases arising under this ordinance shall be as provided in ch. 800 of the Wisconsin Statutes (1999-2000), and as such statutes may be altered, amended, renumbered or recreated in any manner whatsoever after the effective date of this ordinance.

**11.03.020 Prostitution Prohibited.** No person shall operate or be an inmate of a house of prostitution or engage in prostitution within the City.

**11.03.030 Vagrancy and Loitering Prohibited.** No person shall within the City loiter or loaf about any public building, place or premises or wander about the streets, alleys, parks or other public places either by day or night, whose actions give rise to a suspicion of wrongdoing and who is unable to give a satisfactory account of himself, or who, having the physical ability to work, is without any visible means of support and does not seem employment or who derives part of his support from begging, prostitution, pandering, fortune telling or as a similar impostor.

**11.03.040 Indecent Conduct and Language Prohibited.** No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the City.

**11.03.050 Obscene Literature.** No person shall within the City sell, offer for sale, or give away or exhibit any obscene book, pamphlet, paper, card, picture, toy or device.

**11.03.060 Obscene Shows.** No person shall within the City exhibit or advertise any obscene or immoral performance, show or exhibition.

**11.03.070 Window Peeping.** No person shall enter upon the lands of another for the purpose of window peeping, prowling, or trespassing.

**11.04.000 OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY.**

**11.04.010 A. Destruction or Damage of Property Prohibited.**

1. No person shall willfully cause damage, injure or intentionally deface, destroy or meddle with any property of any kind of nature belonging to the City or its departments.
2. No person shall willfully cause damage, injure or intentionally deface, destroy or meddle with any property of any kind or nature belonging to another without that person's consent.
3. A reward of \$50.00 shall be paid by the City to any person who shall furnish information leading to the arrest of any person for an act of vandalism or depredation on City or public property.

**11.04.010 B. Theft.**

The provisions of Section 943.20, Wis. Stats., defining and prohibiting theft of moveable property, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, as they may be amended from time to time, or adopted and made a part of this section by reference, to the extent that such statutes prohibit theft of property which does not exceed \$500.00. A violation of any of such provisions shall constitute a violation of this section.

**11.04.010 C. Retail Theft/Shoplifting.**

1. The provisions of Section 943.50, Wis. Stats., defining and prohibiting retail theft or shoplifting, including provisions relating to the penalty to be imposed or the punishment for violation of such statutes, as they may be amended from time to time, are adopted and made a part of this section by reference. A violation of any such provisions shall constitute a violation of this section.

**11.04.020 Littering Prohibited.** No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks, or other property of the City or upon any private property not owned by him or upon the surface of any body of water within the City.

**11.04.030 Littering From Vehicles.** Any person engaged in hauling any loose material likely to fall or be blown from a vehicle shall take all necessary precautions to prevent such material from falling therefrom, and if such material does fall or is blown therefrom shall cause such material to be picked up and removed. No person shall load a vehicle so that the contents thereof are likely to fall or be scattered therefrom.

**11.04.040 Spitting on Public Places.** No person shall spit or expectorate on any street, sidewalk or public place, public building or public conveyance.

**11.05.000 ISSUANCE OF WORTHLESS CHECKS.**

**11.05.010 A. Issuance of Worthless Checks Prohibited.** No person shall issue any check or other order for payment or money which, at the time of issuance, he or she intends shall not be paid.

**11.05.010 B. Evidence of Issuance.** Any of the following shall be prima facie evidence that the person at the time he or she issued the check or other order for payment intended it should not be paid:

1. Proof that, at the time of issuance, the person did not have an account with the drawee; or
2. Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
3. Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.

**11.05.010 C. Exemptions.**

This section shall not apply to a post-dated check.

**11.05.010 D. Penalty.** Any person violating any provisions of this section shall forfeit the following:

1. The amount of \$50.00, if the worthless check or order is for an amount equal to or less than \$150.00.
2. The amount of \$100.00, if the worthless check or order is in an amount greater than \$150.00 and less than \$500.00.
3. The cost of prosecution in any event.
4. In default of payment, the defendant may be imprisoned in the County Jail until forfeiture and costs are paid, but not to exceed sixty (60) days.

**11.06.000 CURFEW PROVISIONS.**

A. No minor under the age of 17 years shall loiter, idle, wonder, stroll, or be either on foot or in a vehicle of any nature in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places in the City of Port Washington between the hours of 11:00 p.m. and 5:00 a.m. of the following day, official City time; provided, however, that the provisions of this section do not apply to a minor accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor or pursuing his employment, or returning from an authorized public or parochial school or other organizational function which such function shall have been duly registered with the Police Department by a responsible officer of the school or organization, or to any such minor performing any legitimate function authorized by his parent or other adult having legal custody or control of the minor.

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

- B. No parent, guardian, or other adult person having the care and custody of a minor under the age of 17 years shall knowingly permit such minor to violate the provisions of Section 1. above.
- C. Any minor violating the provisions of Section 11.06 (1) shall be handled in accordance with the juvenile court laws or procedure.
- D. Any parent, guardian, or other adult person having the care and custody of a minor violating Section 11.06(2) shall forfeit no less than \$10.00 nor more than \$200.00 and in default of payment thereof shall be imprisoned in the County Jail of Ozaukee

County until such forfeiture and the costs of prosecution are paid, but not exceeding 30 days.

**11.07.000 POSSESSION OR CONSUMPTION OF MALT BEVERAGES OR INTOXICATING LIQUORS ON PUBLIC WAYS.**

- A. Generally Prohibited; Exceptions.** Except as provided in subsections 11.07.000 B. and 14.02.030, no person shall purchase a fermented malt beverage, intoxicating liquor or wine by glass or in open containers except for consumption on the licensed premises, and no person shall carry or be in possession of any open can, cup, glass, bottle or similar drinking vessel or container containing fermented malt beverages, intoxicating liquors or wine, or any such receptacle on which the seal has been broken, or drink from the same on any public way, public street, sidewalk, boulevard, parkway, safety zone, alley or public parking lot or on and/or in any motor vehicle parked on a public way, public street, alley or public parking lot.
- B. Allowed; Restrictions.** The possession or consumption of fermented malt beverages, intoxicating liquors or wine by persons who have attained the legal drinking age is allowed upon the following public ways:
1. On the wooden boardwalk abutting the North Slip, between May 1 and October 1.
  2. Within the marina area lying east of the east curb line of the Marina parking lot, but excluding the municipal boat launch ramp, between May 1 and October 1.
  3. Any public street, sidewalk, boulevard, parkway, alley or parking lot for which a permit has been issued under subsection 11.07.000 C. for the purpose of holding an annual celebration, special event or block party.
  4. Any public sidewalk area for which a right of way use license has been issued under Section 7.11.010 as a part of the operation of a restaurant business serving food and alcohol beverages prepared on private property adjacent thereto, subject to the terms and conditions of the right of way use license, the alcohol beverage license, and any other licenses, permits or approvals required for the use or operation of such premises (e.g., building permit, health permit, zoning permit).
- C. Permits for Annual Celebrations, Special Events or Block Parties, which include the Possession or Consumption of Alcohol Beverages.** Upon written application, the Chief of Police or his designee may grant a permit to persons, groups or organizations allowing a public street, sidewalk, boulevard, parkway, alley or parking lot to be used for the purpose of holding annual celebrations, special events, or block parties which include the possession or consumption of fermented malt beverages, intoxicating liquors or wine thereon. Such permits shall be applied for in accordance with, and if issued shall be subject to the provisions of, Sections 7.17.020 B. and C. The fee for such permit shall be established by the Common Council.

**11.08.000 Loitering Prohibited.**

1. Loitering or Prowling Prohibited. No person shall loiter or prowl in a place, at a time, or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon the appearance of a police or

peace officer, refuses to identify himself under the circumstances which leads the officer to believe a crime has been or will be committed, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police or 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 police or peace officer at the time, would have dispelled the alarm.

2. 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.
3. 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.
  - B. In places of Public Assembly or Use. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, parking lot, or other private 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.
  - C. 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 without such consent in writing and without transacting or causing to be transacted business with the owner, person in charge of his/her/its agent shall be presumptive evidence of a violation of this paragraph.

**11.09.000 HOUSE OF ILL FAME.** No person shall keep or maintain or in any way be connected with or contribute to the support of any disorderly house, house of ill fame or place for the practice of information or who shall knowingly own or be interested therein as proprietor or landlord.

**11.10.000 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.**

- A. It shall be unlawful for any student who is under suspension, expulsion, or other discipline excluding him from attending any school as defined below, or for any person not a student presently enrolled to attend such schools, or not an employee of such schools, or not a parent or guardian of a student so enrolled, or not an otherwise “authorized person” as defined below, to be present within any school building or upon any school grounds under the jurisdiction of such school, without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.
- B. Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of the school district referred to below, or upon request of any police officer, display any written authorization to be present which he may have in his possession, or otherwise explain his presence or his status as a student, employee, parent or guardian, or authorized person as defined below.
- C. All entrances to such school buildings shall be posted with a notice stating “entry into school building by unauthorized persons prohibited”.
- D. 1. It shall be unlawful for any person to be present on any elementary or middle school playground after 10:00 p.m.  
2. It shall be unlawful for any person to be present on any high school playground after 12:00 midnight.
- E. Unauthorized presence shall include any vehicle on school property whose owners or occupants have not received permission to be there or whose owners or occupants are not on school property for some legitimate business or activity; or which is parked in an area reserved for parking to certain authorized vehicles, not including the vehicle in question. Such vehicle may be issued a City of Port Washington Summons that regulates parking or may be towed away at the direction of the school principal or person in charge. The Police Department may also have any vehicle towed away which, because of its location, creates a hazard to life or property.
- F. “School” shall mean any property within the City of Port Washington under the jurisdiction of the Port Washington-Saukville School District.
- G. “Authorized Person” shall include any person who is present at any school building or school grounds for any purpose previously authorized by the schools or their designees.
- H. “Penalty”. Any person who shall violate any of the provisions of this section shall, upon conviction, be subject to a forfeiture of not less than Ten (\$10.00) Dollars, nor more than Two Hundred (\$200.00) Dollars for each offense.

**11.11.000 TRUANCY. Truancy Prohibited.** No person under eighteen (18) years of age shall be a truant or a habitual truant as defined in Section 118.163, Wis. Stats. If a person is found to have violated this section, all of the dispositions set forth in that statute are available to the court.

**11.12.000 REGULATION OF SMOKING AND TOBACCO USE.**

**11.12.010 School Buildings and Grounds.**

A. Definitions.

1. **“Smoking”** means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.
2. **“Tobacco Products”** means cigarettes; cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise; or both for chewing and smoking.

B. Regulation of smoking and use of tobacco products. No person may smoke or use any tobacco products, either indoors or outdoors, at any school building or on any school grounds which are owned by, rented by, or under the control of the Port Washington-Saukville School District, including those portions of the street right-of-way (including street pavement, curb, parkway and sidewalk) of all streets abutting on school grounds.

C. Injunction. Local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this ordinance.

**11.12.020 Use of Cigarette and Tobacco Products Prohibited.**

1. In this section:

- (a) **“Cigarette”** has the meaning given in s. 139.30 (1), Wis. Stats.
- (b) **“Law enforcement officer”** has the meaning given in s.30.50 (4s), Wis. Stats.
- (c) **“Tobacco products”** has the meaning given in s. 139.75 (12), Wis. Stats.

2. Except as provided in sub. (3), no child may do any of the following:

- (a) Buy or attempt to buy any cigarette or tobacco product.
  - (b) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
  - (c) Possess any cigarette or tobacco product.
3. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under s. 134.65 (1), Wis. Stats.
4. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of sub. (2) committed in his or her presence.

**11.12.030 Restrictions on Sale or Gift of Cigarettes or Tobacco Products.**

1. DEFINITIONS. In this section:

- (a) **“Cigarette”** has the meaning given in sec. 139.30 (1).
- (b) **“Distributor”** means any of the following:

1. A person specified under s. 139.30 (3).
  2. A person specified under s. 139.75 (4).
- (c) **“Identification card”** means any of the following:
1. A license containing a photograph issued under ch. 343.
  2. An identification card issued under s. 343.50
  3. An identification card issued under s. 125.08, 1987 stats.
- (d) **“Jobber”** has the meaning given in s. 139.30 (6).
- (e) **“Manufacturer”** means any of the following:
1. A person specified under s. 139.30(7).
  2. A person specified under s. 139.75(5).
- (f) **“Retailer”** means any person licensed under s. 134.65 (1).
- (g) **“School”** has the meaning given in s. 118.257 (1) (c).
- (h) **“Subjobber”** has the meaning given in s. 139.75 (11).
- (i) **“Tobacco Products”** has the meaning given in s.139.75 (12).
- (j) **“Vending machine”** has the meaning given in s. 139.30 (14).
- (k) **“Vending machine operator”** has the meaning given in s.139.30 (15).

## 2. RESTRICTIONS.

- a. No retailer may sell or give cigarettes or tobacco products to any person under the age of 18, except as provided in s. 48.983 (3). A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.
- b.
  1. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and s. 48.983 and 134.66, Wis. Stats.
  2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under s. 48.983 and that the purchaser is subject to a forfeiture of not to exceed \$25.00.
- c.
  1. Except as provided in par. (cm), no retailer may keep a vending machine in any public place that is open to persons under the age of 18 unless all of the following apply:
    - a. The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employee.
    - b. The vending machine is in a place where it is inaccessible to the public when the premises are closed.
  2. The person who ultimately controls, governs or directs the activities within the premises where the vending machine is located shall ensure that

an employee of the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open.

3. Except as provided in subd. 4, a vending machine operator shall remove all of his or her vending machines that are located in any place prohibited by this paragraph by June 1, 1992.

4. Notwithstanding subd. 3, if a written agreement binding on a vending machine operator governs his or her vending machine that is located in any place prohibited by this paragraph, the vending machine operator shall remove the vending machine on the date that the written agreement expires or would be extended or renewed or on May 1, 1993, whichever occurs first.

(cm) 1. Notwithstanding par. (c), no retailer may place a vending machine within 500 feet of a school.

2. Except as provided in subd. 3, a vending machine operator shall remove all of his or her vending machines which are located within 500 feet of a school by September 1, 1989.

3. Notwithstanding subd. 2, if a written agreement binding on a vending machine operator governs the location of his or her vending machine which is located within 500 feet of a school, the vending machine operator shall remove the vending machine on the date that the written agreement expires or would be extended or renewed or on May 1, 1993, whichever occurs first.

d. No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.

3. DEFENSE OF RETAILER. Proof of all of the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. (2) (a):

a. That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.

b. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.

c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

4. PENALTIES.

(a) 1. In this paragraph, "violation" means a violation of sub. (2) (a) (c),(cm) or (d) or a local ordinance which strictly conforms to sub. (2)(a)(c)(cm) or (d).

2. A person who commits a violation is subject to a forfeiture of:

- a. Not more than \$500.00 if the person has not committed a previous violation within 12 months of the violation; or
  - b. Not less than \$200.00 nor more than \$500.00 if the person has committed a previous violation within 12 months of the violation.
3. A court shall suspend any license or permit issued under s. 134.65, 139.34, or 139.79 to a person for:
  - a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
  - b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or
  - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 or more other violations.
4. The court shall promptly mail notice of a suspension under subd. 3 to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

(b) Whoever violates sub. (2)(b) shall forfeit not more than \$25.00.

### **11.13.000 MARIJUANA, POSSESSION AND USE PROHIBITED.**

**11.13.010 Definition.** “Marijuana” means all parts of the plant cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture or preparation of the plant, its seeds or resin.

**11.13.020 Possession, Delivery and Use Prohibited.** It shall be unlawful for any person to possess, deliver, sell or use marijuana or a marijuana derivative. This section shall include, but not be limited to, those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.

**11.13.030 Exception.** This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner licensed to administer a controlled substance and while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.

**11.13.040 Penalties.** Any person who violates any subsection of Section 11.13.000 shall, upon conviction, be subject to a forfeiture of not less than One Hundred (\$100.00)

Dollars nor more than Five Hundred (\$500.00) Dollars, together with costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the total forfeiture and costs are paid, but not to exceed thirty (30) days.

**11.135.000     SYNTHETIC CHEMICAL CANNABINOID PROHIBITED.**

(1)     **DEFINITIONS.**

- (a) “Deliver” has the same meaning given in Section 961.01 (6), Wis. Stats. (as amended from time to time) with respect to a controlled substance or controlled substance analog.
- (b) “Distribute” has the same meaning given in Section 961.09 (9), Wis. Stats. (as amended from time to time) with respect to a controlled substance or controlled substance analog.

(2)     **PROHIBITED SALES, USE AND POSSESSION.**

It shall be illegal for any person to possess, use, purchase or attempt to purchase, sell, publicly display for sale or attempt to sell, give, deliver, distribute, or barter any part of the following plant or any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, Yucatan Fire”, “Blaze”, “Red X Dawn”, “Zohia”, “Spike Diamond”, “Route 69”, “Smoke XXXX”, “Citron”, “fake” or “new” marijuana, or by another name, label or description:

- (a) Salvia divinorum or Salvinorin A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
- (b) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol - some trade or other names: HU-210;
- (c) 1-Pentyl-3-(1-naphthoyl) indole - some trade or other names: JWH-018\spice;
- (d) 1-Butyl-3-(1naphthoyl) indole-some trade or other names: JWH-073;
- (e) 1-(3{trifluoromethylphenyl}) piperazine - some trade or other names: TFMPP;
- (f) 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol - some trade or other names: CP 47, 497;
- (g) 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole - some trade or other names: JWH-200;
- (h) 1-hexyl-3-(1-naphthoyl)indole - some trade or other names: JWH-019;
- (i) 1-pentyl-3-(2-methoxyphenylacetyl)indole - some trade or other names: JWH-250;
- (j) 1-pentyl-3-(4-chloro-1-naphthoyl)indole - some trade or other names: JWH-398;

- (k) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone - or some trade or other names: JWH-015;
- (l) Dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol - or some trade or other names: HU-211;
- (m) or any similar structural analogs.

(3) **EXCEPTIONS; MEDICAL OR DENTAL USE ALLOWED.**

Acts otherwise prohibited under this section shall not be unlawful if done by or under the direction or prescription of a physician, dentist, or other medical health professional licensed by the state of Wisconsin, authorized to direct or prescribe such acts, provided that such use is permitted under Wisconsin and federal laws.

(4) **PENALTIES.**

- (a) Any chemical used in violation of this section shall be seized and forfeited to the City.
- (b) Any person who shall sell, publicly display for sale or attempt to sell, give, deliver, distribute, or barter any part of the plant or any one or more of the chemicals as prohibited in subsec. (2) shall, upon conviction, be subject to a forfeiture of not less than \$500.00 and not more than \$1,000.00, together with the costs of prosecution for each violation, and upon default of payment be imprisoned in the county jail until the costs are paid, but not to exceed 90 days. Each day that a violation continues shall constitute a separate violation. The City may also seek equitable relief to obtain compliance.
- (c) Any person who shall possess, purchase or attempt to purchase any part of the plant or any one or more of the chemicals as prohibited in subsec. (2) shall, upon conviction, be subject to a forfeiture of not less than \$100.00 and not more than \$500.00, together with the costs of prosecution for each violation, and upon default of payment be imprisoned in the county jail until the costs are paid, but not to exceed 90 days.

**11.14.000 DRUG PARAPHERNALIA, POSSESSION AND USE PROHIBITED.**

**11.14.010 Drug Paraphernalia Defined.** 1. A. In this section, “drug paraphernalia” means all equipment, products and materials of any kind which are used primarily intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introduced into the human body, a controlled substance, as defined in Ch. 161, Wis. Stats., in violation of this section. It includes, but is not limited to:

- (1) Kits used primarily intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance from which a controlled substance can be derived;
- (2) Kits used, primarily intended for use, or designed for use, in manufacturing, selling, distributing, compounding, converting, producing, processing, or preparing controlled substances;
- (3) Isomerization devices used, primarily intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance;
- (4) Testing equipment used, primarily intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;
- (5) Scales and balances used, primarily intended for use, or designed for use, in weighing or measuring controlled substances;
- (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose used, primarily intended for use, or designed for use in cutting controlled substances;
- (7) Separation gins and sifters used, primarily intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
- (8) Blenders, bowls, containers, spoons and mixing devices used, primarily intended for use, or designed for use, in compounding controlled substances;
- (9) Capsules, balloons, envelopes, or other containers used, primarily intended for use, or designed for use, in packaging small quantities of controlled substances;
- (10) Containers and other objects used, primarily intended for use, or designed for use, in storing or concealing controlled substances;
- (11) Hypodermic syringes, needles or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body;
- (12) Objects used, primarily intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including, but not limited to:

- (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctures metal bowls;
- (b) Water pipes;
- (c) Carburetion tubes and devices;
- (d) Smoking and carburetion masks;
- (e) Roach clips, defined as objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (f) Miniature cocaine spoons and cocaine vials;
- (g) Chamber pipes;
- (h) Carburetor pipes;
- (i) Electric pipes;
- (j) Air-driven pipes;

- (k) Chilams;
- (l) Bongs;
- (m) Ice pipes or chillers.

B. "Drug Paraphernalia" excludes:

- (1) Hypodermic syringes, needles and other objects used or primarily intended for use in parenterally injecting substances into the human body.
- (2) Any items, including pipes, papers and accessories, that are designed for use or primarily intended for use with tobacco products.

2. "Primarily" means chiefly or mainly.

**11.14.020 Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other consideration a court may deem relevant:

- A. Statements by an owner or by anyone in control of the object concerning its use;
- B. Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance;
- C. The proximity of the object in time and space to a direct violation of this section;
- D. The proximity of the object to controlled substances;
- E. The existence of any residue of controlled substance on the object;
- F. Direct or circumstantial evidence of the primary intent of an owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, primary intent to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this section, shall not prevent a finding that the object is primarily intended for use, or designed for use, as drug paraphernalia;
- G. Oral or written instructions provided with the object concerning its use;
- H. Descriptive materials accompanying the object which explain or depict its use;
- I. National and local advertising concerning its use;
- J. The manner in which the object is displayed for sale;

K Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed dealer or distributor of tobacco products.

L. The existence and a scope of legitimate uses for the object in the community;

M. Expert testimony concerning its use.

**11.14.030 Prohibited Activities.** A. Possession of Drug Paraphernalia. No person may use, or possess with primarily intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section. Possession of drug paraphernalia shall give rise to a rebuttable presumption of prohibited use.

B. Manufacture, Sale or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with primary intent to deliver or manufacture with primary intent to deliver, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

C. Delivery of Drug Paraphernalia to a Minor. Any person eighteen (18) years of age or over, who violates subsection B. of this section by delivering drug paraphernalia to a person under eighteen (18) years of age, is guilty of a special offense.

D. Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or primarily intended for use as drug paraphernalia.

E. Exemption. This subsection does not apply to manufacturers, practitioners, pharmacists, owners or pharmacies and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This section does not prohibit the possession, manufacture, or use of hypodermics, in accordance with Chapter 161, Wis. Stats.

**11.14.040 Penalties.** A. Any drug paraphernalia used or possessed in violation of this section shall be seized and forfeited to the City in accordance with the provisions of the Port Washington Code of Ordinances as to property forfeiture.

B. Any person who violates subsection A, B or D of Section 11.14.030 shall, upon conviction, be subject to a forfeiture of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, together with costs of prosecution, and upon default of payment be imprisoned in the county jail or house of corrections until the total forfeiture and costs are paid, but not to exceed thirty (30) days.

C. Any person who violates subsection C of Section 11.14.030 shall, upon conviction, be subject to a forfeiture of not less than Two Hundred (\$200.00) Dollars nor more than One Thousand (\$1,000.00), together with costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the total forfeiture and costs are paid, but not to exceed sixty (60) days.

### **11.15.000 RETURNING LIBRARY MATERIALS.**

1. Definitions. For the purpose of this section, certain words and terms are defined as follows:

(a) **“Library”** means any public library, library of an educational or historical organization or society, or museum, within the City of Port Washington.

(b) **“Library Material”** includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, sound recording, audio-visual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documentary, written or printed materials, regardless of physical form or characteristic, belonging to, on loan to or otherwise in the custody of a library.

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

3. Failure to Return Materials. Any person who has charged out library material from a library in accordance with the rules and regulations adopted by the library board and who has failed to return said library material on or before the date that said library material was to have been returned to the library and who has received a written notice to return materials owned by or in charge of the library, or any person to whom the library has attempted to send such a notice but is unable to do so because said person failed to inform the library of a change of address, and who fails to return such material according to the rules and regulations adopted by the library board, or any person who conceals library material with intent to deprive the library of possession of such material shall forfeit:

\$20.00, together with the costs of prosecution, if the value of the library materials does not exceed \$20.00.

\$50.00, together with the costs of prosecution, if the value of the library materials does not exceed \$50.00.

\$100.00, together with the costs of prosecution, if the value of the library materials exceeds \$50.00.

In the event of a failure to pay such forfeiture, where no showing of indigency is made, a person convicted of violating this Ordinance may be imprisoned for no more than three (3) days, as the court deems fit, or until the judgment is sooner paid.

The failure to return, or concealment of, each item of library material belonging to or in the charge of the library shall constitute a separate violation of this Ordinance.

**11.25.000 PENALTY.** Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 25.04 of this Code.

**11.26.000 ATTEMPT.** Whoever attempts to commit an offense under this Chapter may be subject to forfeiture not to exceed the maximum penalty for the completed offense.