

CHAPTER 5

Offenses Involving Alcoholic Beverages

SEC. 11-5-1 OUTSIDE CONSUMPTION IN PUBLIC AREAS; PERMITS FOR PARK CONSUMPTION

(a) **ALCOHOLIC BEVERAGES IN PUBLIC AREAS.**

- (1) It shall be unlawful for any person to sell, serve or give away, offer to sell, serve or give away, or to consume, carry or expose to view any open container of any alcoholic beverage, intoxicating liquor or fermented malt beverage upon any public street, sidewalk, any City trail or bike path, the Riverwalk except for the trail in Jefferson Park, alley, public parking lot, highway, cemetery or drives or other public area or parking areas for business establishments held out to the public within the City, or on private property without the owner's consent, except at licensed premises.
- (2) No owner, lessee or person in charge of a public place may permit the consumption of alcoholic beverages on the premises of a public place unless the person has an appropriate retail license or permit. "Public place" shall be defined as a place which caters to the public. This restriction does not apply to municipalities, buildings and parks owned by counties, regularly established athletic fields and stadiums, school buildings, churches or clubs. This Section also applies to any patron in the place catering to the public who brings alcoholic beverages into such place for consumption.

(b) **CONSUMPTION OF ALCOHOLIC BEVERAGES IN CITY PARKS.**

- (1) Park Beer Permit Required. No alcoholic beverages with a higher alcoholic content than those found in commercially produced fermented malt beverages may be consumed in Jefferson Park, Koslo Park or Curtis Reed Square. Consumption of alcoholic beverages is prohibited in other City parks. Before any alcoholic beverage may be consumed, dispensed, sold or given away, a permit must first be obtained from the Park and Recreation Board and a fee paid. The permit fee shall be established by the Park and Recreation Board with approval of the Common Council. Permits are available at the Park and Recreation Office during regular office hours. A permittee shall have stamped on the permit the area clearly defined in which drinking, selling or dispensing of alcoholic beverages is permitted. The Parks and Recreation Board shall require the installation of proper fencing or the use of wristbands in order to control and the consumption by minors.
- (2) Fees. The fee for park beer permits shall be as follows:
 - a. Before any alcoholic beverage may be sold in a park, a special Class "B" liquor license must be obtained from the City Clerk.
 - b. Any non-profit organization selling beer must appear at a Park and Recreation Board meeting in order to explain picnic/festival plans.
 - c. When selling alcoholic beverages, event organizers shall check identification and take other necessary steps to prevent consumption of alcohol or fermented malt beverages by minors.
- (3) Time for Consumption. No fermented alcoholic beverages may be sold in City parks after 10:30 p.m. Such beverage shall not be brought into the parks after this time. All such consumption must cease at the park closing time of 11:00 p.m.
- (4) Police Protection. The sponsoring organization shall arrange for adequate security protection from the Menasha Police Department.

- (5) Special Condition for Koslo Baseball Park. Fermented malt beverages may be sold only through a licensed concession stand located on the premises. Alcoholic beverages may not be brought in.
- (6) Menasha Marina. Possessing and consuming alcoholic beverages within the fenced-in area of the Menasha Marina is permitted.
- (c) **PRIVATE PROPERTY HELD OUT FOR PUBLIC USE.** It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.
- (d) **LEAVING LICENSED PREMISES WITH OPEN CONTAINER.**
 - (1) It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
 - (2) It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.
 - (3) It shall be unlawful for any patron to remove an original unopened package, container or bottle containing any alcohol beverage from the licensed premises between the hours of 9:00 p.m. and 8:00 a.m.
- (e) **CERTAIN BEVERAGE CONSUMPTION ON SCHOOL PROPERTIES PROHIBITED.** The consumption, dispensation, vending or having in one's possession intoxicating liquor or fermented malt beverages on all properties under the jurisdiction of the Menasha Joint School District No. 1 at any time is hereby prohibited.
- (f) **EXCEPTIONS.**
 - (1) The provisions of this Section may be waived by the Common Council for duly authorized events.
 - (2) Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Section 7-2-16 are fully complied with.
- (g) **DEFINITIONS.**
 - (1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
 - (2) As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
 - (3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Sections 7-2-16 and 12-1-6.

SEC. 11-5-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

(a) SALES OF ALCOHOL BEVERAGES TO UNDERAGE PERSONS.

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

(b) SALE OF ALCOHOL BEVERAGES TO INTOXICATED PERSONS.

- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- (2) No licensee or permittee may sell, vend, deal or traffic alcohol beverages to or with a person who is intoxicated.

State Law Reference: Section 125.07, Wis. Stats.

SEC. 11-5-3 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE; PENALTY.

(a) *Restrictions.* An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

1. An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
2. An underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
3. Hotels, drug stores, grocery stores, bowling centers, billiards centers having on the premises 12 or more billiards tables that are not designed for coin operation and that are 8 feet or longer in length, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums, public facilities as defined in s. 125.51 (5) (b) 1. d. which are owned by a county or municipality or centers for the visual or performing arts.
- 3m. Premises having an indoor volleyball court that measures at least 9 meters by 18 meters in area. The exception under this subdivision does not authorize an underage person to loiter in any room that is primarily used for the sale or consumption of alcohol beverages.

- 3r. Any privately owned business that exists to provide recreational fishing opportunities to the public for a fee and that is registered under [s. 95.60 \(3m\)](#) if the sale of alcohol beverages accounts for less than 30 percent of the business's gross receipts.
4. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in [chs. 27](#) and [28](#), and parks owned or operated by agricultural societies.
5. Ski chalets, golf courses and golf clubhouses, racetracks licensed under [ch. 562](#), curling clubs, private soccer clubs and private tennis clubs.
6. Premises operated under both a Class "B" or "Class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
- 6m. Premises operating under both a "Class C" license and a restaurant permit.
7. An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market, if the person does not enter or remain in a room where alcohol beverages are sold, furnished or possessed.
8. An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this subdivision. An underage person may enter and remain on Class "B" or "Class B" premises under this subdivision only if the municipality which issued the Class "B" or "Class B" license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subdivision and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" or "Class B" licensee a written authorization permitting underage persons to be present under this subdivision on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.
9. A person who is at least 18 years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
10. An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under this subdivision.

11. An underage person who enters or remains in a dance hall or banquet or hospitality room attached to Class "B" or "Class B" licensed premises for the purpose of attending a banquet, reception, dance, or other similar event.

12. An underage person who enters and remains on premises for which a temporary Class "B" license is issued under [s. 125.26 \(6\)](#) if the licensee is authorized by the official or body of the municipality that issued the license to permit underage persons to be on the premises under [s. 125.26 \(6\)](#) and if the licensee permits underage persons to be on the premises.

13. An underage person who enters or remains in a banquet or hospitality room on brewery premises operated under a Class "B" or "Class B" license for the purpose of attending a brewery tour.

SEC. 11-5-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

- (a) Any underage person who does any of the following is guilty of a violation:
 - (1) Procures or attempts to procure alcohol beverages.
 - (2) Knowingly possesses or consumes intoxicating liquor.
 - (3) Enters or is on licensed premises in violation of Section 11-5-3(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.
- (c) Any person violating Subsections (a) or (b) is subject to the following penalties:
 - (1) For a first violation, a forfeiture of not more than Fifty Dollars (\$50.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred Dollars (\$100.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty Dollars (\$150.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- (d)
 - (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Common Council. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
 - (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical

ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

- (e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.
- (f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 48.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 48.344(3), Wis. Stats.
- (g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.
- (h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

SEC. 11-5-5 DEFENSE OF SELLERS.

- (a) **DEFENSES.** Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
 - (1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.
 - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
 - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
- (b) **BOOK KEPT BY LICENSEES AND PERMITTEES.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this Subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and purchaser's signature.

State Law Reference: Section 125.07(6) and (7), Wis. Stats.

SEC. 11-5-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE; FALSE OR ALTERED IDENTIFICATION CARDS.

Any underage person who does any of the following is subject to the penalties specified under Section 11-5-4(c) or (d):

- (a) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
- (b) Makes, alters or duplicates an official identification card.
- (c) Presents false information to an issuing officer in applying for an official identification card.

State Law Reference: Section 125.09(3), Wis. Stats.

SEC. 11-5-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED.

- (a) In this Subsection:
 - (1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
 - (2) "School" means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
 - (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
 - (4) "School premises" means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
 - (1) On school premises;
 - (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
 - (3) While participating in a school-sponsored activity.
- (c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

Cross Reference: Section 11-6-5.

SEC. 11-5-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.

- (a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 11-5-4(a) or (b).

State Law Reference: Section 125.07(1)(a)3 and 4, Wis. Stats.

SEC. 11-5-9 SOLICITATION OF DRINKS PROHIBITED.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a

customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this Section.

CHAPTER 6

Offenses by Juveniles

SEC. 11-6-1 CURFEW.

- (a) It shall be unlawful for any person under sixteen (16) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the City of Menasha between the hours of 10:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefor. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.
- (b) **EXCEPTIONS.**
- (1) This Section shall not apply to a child:
- Who is performing an errand as directed by his parent, guardian or person having lawful custody.
 - Who is on his own premises or in the areas immediately adjacent thereto.
 - Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - Who is returning home from a supervised school, church or civic function.
- (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- (c) It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under sixteen (16) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing persons notification to the police department shall not be considered to have allowed or permitted any person under sixteen (16) years of age to violate this Section.
- (d) It shall be unlawful for any person, firm or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under sixteen (16) years of age to loiter, loaf or idle in such place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this Section shall find persons under sixteen (16) years of age loitering, loafing or idling in such place of business, he shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform them of the violation.
- (e) Every law enforcement officer is hereby authorized to detain any minor violating the provisions of above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the

Police shall take whatever action is deemed necessary in the best interest of the minor.

- (f) The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer of the City, as provided in Subsection (e), such minor, parent, guardian or person having such legal custody shall be advised, personally, if known or by registered mail, as to the provisions of this Section, and further advised that any violation of this Section occurring thereafter by this minor or any other minor under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
- (g)
 - (1) Any parent, guardian or person having legal custody of a child described in Subsections (a) through (e) who has been warned in the manner provided in Subsection (f) and who thereafter violates any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Ordinance because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.
 - (2) Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the cost of prosecution.

SEC. 11-6-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161, of the Wisconsin Statutes.

SEC. 11-6-3 PETTY THEFT BY JUVENILES.

It shall be unlawful for any person under the age of eighteen (18), with intent, to steal or take property valued at Three Hundred Dollars (\$300.00) or less from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

SEC. 11-6-4 RECEIVING STOLEN GOODS.

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.

SEC. 11-6-5 POSSESSION AND CONSUMPTION OF ALCOHOLIC BEVERAGES BY JUVENILES.

It shall be unlawful for any person under the Wisconsin legal drinking age to possess or consume intoxicating liquors or fermented malt beverages anywhere within the City except and unless accompanied by a parent or guardian.

Cross Reference: Section 11-5-7.

SEC. 11-6-6 CITY JURISDICTION OVER PERSONS 14 THROUGH 17 YEARS OF AGE.

- (a) **ADOPTION OF STATE STATUTE.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **PROVISIONS OF ORDINANCE APPLICABLE TO PERSONS 14 THROUGH 17 YEARS OF AGE.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against person 14 through 17 years of age may be brought on behalf of the City of Menasha and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (c) **NO INCARCERATION AS PENALTY.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (d) **ADDITIONAL PROHIBITED ACTS.** In addition to any other provision of the City of Menasha Code of Ordinances, no person age 14 through 20 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **PENALTY FOR VIOLATIONS OF SUBSECTION (d).** Any person 14 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-7 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 11-5-7.

CHAPTER 7

Public Nuisances

SEC. 11-7-1 PUBLIC NUISANCES PROHIBITED.

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

SEC. 11-7-2 PUBLIC NUISANCE DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to substantially annoy, injure or endanger the comfort, health, repose or safety of the public. Violations of the following shall also be considered a public nuisance:

- (a) The exterior of every structure or accessory structure, residential and non-residential, including fences, shall be maintained in good repair and all surfaces thereof shall be kept painted where necessary for purposes of preservation and appearance. The same shall be maintained free of broken, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.
- (b) Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, or other unsightly debris, such as may tend to depreciate property values in the area or create a nuisance or hazard shall not be allowed on any property, except when such materials are properly housed and out of public view.
- (c) Any use of property, substances or things within the City of Menasha or within four (4) miles thereof emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

SEC. 11-7-3 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11-7-2:

- (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 foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (c) **BREEDING PLACES FOR VERMIN, ETC.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (d) **STAGNANT WATER.** All stagnant water in which mosquitoes, flies or other insects can multiply.

- (e) **GARBAGE CANS.** Garbage cans which are not fly-tight.
- (f) **NOXIOUS WEEDS.** All noxious weeds and other rank growth of vegetation.
- (g) **WATER POLLUTION.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (h) **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.
- (i) **ANIMALS AT LARGE.** All animals running at large.
- (j) **ACCUMULATIONS OF REFUSE.** Accumulations of old cans, lumber, elm firewood and other refuse.
- (k) **LITTER, TRASH, ETC.** Filthy, littered or trash covered cellars, house yards, factory yards, vacant areas in the rear of stores, vacant lots, houses, buildings or premises containing trash, litter, rags, accumulation or empty barrels, boxes, crates, packing cases, lumber or firewood not neatly piled, scrap iron, tin or other metal not neatly piled, or anything in which flies or rats may breed or multiply or which may be a fire danger.
- (l) **ANIMAL EXCRETA.** The owner or any person having immediate control of an animal shall promptly remove and dispose of, in a sanitary manner, any excreta left or deposited by the animal upon any public or private property.
- (m) **PREMISES IN VIOLATION OF BUILDING CODE.** All buildings erected, repaired or altered within the City in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures.
- (n) **UNAUTHORIZED STREET OBSTRUCTIONS OR 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 length of time after the purpose thereof has been accomplished.
- (o) **UNGUARDED EXCAVATIONS, ETC.** All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (p) **DUST CONTROL.**
 - (1) Applicability. When applicable, this Subsection shall govern all lots except those zoned and used for one (1) and two (2) family dwellings.
 - (2) Specifics. Each person, partnership or corporation owning such a lot shall conduct his business in such a manner as to avoid unnecessary inconvenience and annoyance to the neighboring property owners. That person, partnership or corporation shall take all practical measures to reduce to the utter minimum dust pollution in the area. Said measures shall include, but not be limited to, blacktopping, seal coating, oiling, seeding or any other measures suggested by the Director of Public Works. The Director of Public Works is hereby ordered and directed to make the necessary recommendations to the offending property owner taking into consideration the type of activity permitted on the lot, amount of traffic and all other conditions associated with the business. Should the aggrieved property owner feel that such order, after being delivered in writing, is unfair or impractical, he may appeal the order of the Director of Public Works to the Board of Public Works. All orders of the Director of Public Works shall be in writing and delivered by certified mail. Property owners shall be given thirty (30) days in which to comply. An appeal from any order, however, must be made to the Board of Public Works within ten (10) days of the delivery of the certified letter.
 - (3) Duties of Owners. The owner of any lot shall at all times maintain the premises free

of litter, provided, however, that this Section shall not prohibit the storage of litter in authorized private receptacles for collection.

- (4) Notice to Offending Property Owner. The Health Officer is hereby authorized and empowered to notify the owner by certified mail to properly dispose of litter located on such owner's property which is dangerous to the public health, safety or welfare.
- (q) **NOXIOUS FUMES.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the City limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (r) **NOXIOUS ODORS.** Any use of property, substances or things within the City or within four (4) miles thereof emitting or causing any foul, offensive, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

SEC. 11-7-4 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11-7-2:

- (a) **SIGNS, BILLBOARDS, ETC.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **ILLEGAL BUILDINGS.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the City relating to materials and manner of construction of buildings and structures within the City.
- (c) **UNAUTHORIZED TRAFFIC SIGNS.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **OBSTRUCTION OF INTERSECTIONS.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **TREE LIMBS.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.
- (f) **DANGEROUS TREES.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **FIREWORKS.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City.
- (h) **DILAPIDATED BUILDINGS.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (i) **WIRES OVER STREETS.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) **NOISY ANIMALS OR FOWL.** The keeping or harboring of any animal or fowl which,

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

- (k) **OBSTRUCTIONS OF STREETS: EXCAVATIONS.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the Ordinances of the City or which, although made in accordance with such Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.
- (l) **OPEN EXCAVATIONS.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (m) **ABANDONED REFRIGERATORS.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) **FLAMMABLE LIQUIDS.** Repeated or continuous violations of the Ordinances of the City or laws of the State relating to the storage of flammable liquids.
- (o) **UNREMOVED SNOW.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

SEC. 11-7-5 ABATEMENT OF PUBLIC NUISANCES.

- (a) **NOTICE TO OWNER.** If the Director of Community Development shall determine that a public nuisance exists on private or public property and that there is great and immediate danger to the public health, safety or peace, he may call upon all Department Heads to implement his orders and the same shall cooperate fully and with the permission of the City Attorney, serve notice on the owner or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of said notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within seventy-two (72) hours and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same.
- (b) **ABATEMENT BY CITY.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the City Attorney may cause the abatement or removal of such public nuisance.
- (c) **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, or placed as a special tax and entered on the tax rolls.
- (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.