



Village of Marathon City
Offenses & Nuisances

ADOPTED 09/03/2015
PUBLISHED 9/10/2015
ENACTED 9/10/2015

TITLE 11
OFFENSES AND NUISANCES

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

ARICLE 1
State Statutes Adopted

- 11.1.1 Offenses Against State Laws Subject to Forfeiture
- 11.1.2 Penalties; Attempt; Parties to Acts

11.1.1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the village of Marathon City provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code. Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code.

- 29.288 Throwing Refuse in Water
- 48.17 Jurisdiction – Civil Law and Ordinance Violations
- 48.343 Dispositions – Civil Law and Ordinance Violations
- 48.344 Dispositions – Intoxicating Liquor and Beer Violations
- 48.345 Disposition of Child Adjudged in Need Protection
- 48.983 Use of Tobacco Products
- 50.58 Careless Smoking
- 54.303 Synthetic Cannabinoid Prohibited
- 118.07 Safety Requirements
- 118.08 School Zones; Crossings
- 118.09 Safety Zones
- 118.10 School Safety Patrols
- 118.105 Control of Traffic on School Premises
- 118.11 School Fences
- 118.123 Reports and Records
- 118.163 Truancy
- 134.65 Cigarette and Tobacco Products Retailer License
- 134.66 Restrictions on Sale or Gift of Cigarettes or Tobacco Products
- 167.10 Fireworks Regulated
- 175.25 Illegal Storage of Junked Vehicles
- 939.05(2)(b) Aiding and Abetting
- 939.22 Words and Phrases Defined
- 940.19(1) Battery

940.291 Failure of a Police Officer to Render Aid
941.01 Negligent Operation of a Vehicle
941.10 Negligent Handling of Burning Materials
941.12(2)(3) Interfering With or Failing to Assist in Firefighting
941.13 False Alarms and Interference with Firefighting
941.20(1) Reckless Use of Weapon
941.24 Possession of Switchblade Knife
941.35 Emergency Telephone Calls
941.36 Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
941.37(1)(2) Obstructing Emergency or Rescue Personnel
942.05 Opening Letters
943.01(1) Criminal Damage to Property
943.11 Entry Into Locked Vehicle
943.125 Entry Into Locked Coin Box
943.13 Trespass to Land
943.14 Trespass to Dwellings
943.145 Criminal Trespass to a Medical Facility
943.20 Theft of Property
943.21 Fraud on Innkeeper
943.22 Cheating Tokens
943.23(5) Operating Vehicle Without Owner's Consent
943.34 Receiving Stolen Property
943.37 Alteration of Property Identification Consent
943.38(3) Forgery
943.41 Credit Card Crimes
943.50 Retail Theft
943.55 Removal of a Shopping Cart
944.15 Fornication
944.17 Sexual Gratification
944.20 Lewd and Lascivious Behavior
944.21 Obscene Material or Performance
944.23 Making Lewd, Obscene or Indecent Drawings
944.30 Prostitution
944.31 Patronizing Prostitutes
944.33 Pandering
944.36 Solicitation of Drinks Prohibited
945.01 Definitions Relating to Gambling
945.02 Gambling

945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42(2)	Escape
946.46	Encouraging Violation of Probation or Parole
946.69	Falsely Assuming to Act as Public Officer or Employee
946.70	Impersonating Peace Officer
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.047	Littering Shores
947.06	Unlawful Assemblies
948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse With a Child Age 16 or Older
948.10	Exposing a Sex Organ
948.11	Exposing a Child to Harmful Material
948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.50	Strip Search by School Employee
948.51(3)(a)	Hazing
948.60	Possession of a Dangerous Weapon by a Child
948.61(2)(a)	Dangerous Weapons on School Premises
948.63	Receiving Property From a Child
951.01	Definitions Relating to Crimes Against Animals
951.015	Construction and Application
951.02	Mistreating Animals
951.03	Dognapping or Catnapping
951.04	Leading Animal from Motor Vehicle
951.05	Transportation of Animals
951.06	Use of Poisonous and Controlled Substances
951.07	Use of Certain Devices Prohibited
951.08	Instigating Fights Between Animals
951.09	Shooting at Caged or Staked Animals
951.10	Sale of Baby Rabbits, Chicks and Other Fowl
951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter

951.15 Abandoning Animals
 Investigation of Animal Cruelty Complaints
 Reimbursement for Expenses

11.1.2 PENALTIES; ATTEMPT; PARTIES TO ACTS.

- (A) **Penalty.** In addition to the general penalty provisions of this Code in Section 1.1.6 or any other penalty imposed for violation of any Section of this Title, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any un-emancipated minor child who violates Section 11.3.1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code shall prevent the police department from referring violations of this Title to the District Attorney's office in the interest of justice.
- (B) **Attempt**
- (1) Whoever attempts to commit an act prohibited by Title 11 of this Code may be required to forfeit amounts not exceed one-half (1/2) the maximum penalty for the completed act.
- (2) An attempt to commit an act prohibited by Title 11 of this Code requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he does acts towards the commission of the violation which demonstrate, that he formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- (C) **Parties to Acts Prohibited in Title 11.**
- (1) Whoever is concerned in the commission of an act prohibited by Title 11 of this code, is a principle and may be charged with and convicted of the commission of said act although he did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.

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

ARTICLE 2
Offenses Against Public Safety and Peace

- 11.2.1 Regulation of Firearms, Explosives, and Other Missiles, Certain Weapons Prohibited
- 11.2.2 This Space Reserved For Future Use
- 11.2.3 This Space Reserved For Future Use
- 11.2.4 Sale and Discharge of Fireworks Restricted
- 11.2.5 Obstructing Streets and Sidewalks Prohibited
- 11.2.6 Loitering Prohibited
- 11.2.7 Loud and Unnecessary Noise Prohibited
- 11.2.8 Disorderly Conduct
- 11.2.9 Unauthorized Presence on School Property
- 11.2.10 Failure to Obey Lawful Order; Resisting an Officer
- 11.2.11 Possession of Controlled Substances; Marijuana
- 11.2.12 Synthetic Cannabinoid Prohibited
- 11.2.13 Harassment
- 11.2.14 Crossing a Police Line
- 11.2.15 This Space Reserved For Future Use

11.2.1 REGULATIONS OF FIREARMS, EXPLOSIVES, AND OTHER MISSILES

- (A) **Definitions.** For the purposes of this Section, a firearm is defined as a weapon that acts by force or gun powder.
- (B) **Discharge of Firearms Regulated.** No person, except a law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, spring gun, air gun or pneumatic pellet gun of any description in his possession or under their control within the Village of Marathon City.
- (C) **Shooting into the Village Limits.** No person shall in the territory adjacent to the village discharge any firearm in such manner that the discharge shall enter or fall with the Village.

- (D) **Hunting Prohibited.** Hunting within the village with a firearm is prohibited unless permission is granted by the Village Board. Bowhunting within the Village shall comply with Section G 1(d) of this Article.
- (E) **Shooting Ranges.** This Article shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the village board, subject to zoning compliance, and upon the recommendation of the Chief of Police, where proper safety precautions are taken.
- (F) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the village without first obtaining a permit to do so from the village board.
- (G) **Throwing or Shooting of Arrows, Stones, or Other Missiles Prohibited.**
It shall be unlawful for any person to discharge or throw by any means any dangerous missile, object, arrow, stone, snowball or other missile at anything or any person within the village, provided, however, upon written application to the Chief of Police. A person may be granted permission to construct and maintain supervised archery ranges if, in the opinion of the Village Board, the construction or maintenance of such ranges will not endanger the public health and safety.
- (1) This Subsection shall not apply:
- (a) To the shooting or discharging of toy arrows which have a tip made of rubber or similar material.
 - (b) To a supervised archery range approved by the Village Board.
 - (c) Within the interior of a single family dwelling.
 - (d) Bow Hunting within the Village of Marathon City corporate limits shall satisfy all of the following requirements:
 1. Every person who bow hunts within the Village of Marathon City shall:
 - i. Possess a current valid deer hunting license or small game license issue by the Wisconsin Department of Natural Resources;
 - ii. Secure the permission of the owner of the land where the hunt is to occur;

- iii. Hunt in a location no less than 100 yards from any “Building” without the express written consent of any and all owners of said “Buildings” within that distance. “Building” shall mean a permanent structure used for human occupancy and includes a manufactured home, as defined by Wis. Stats. 101.91(2);
- iv. Hunt from an elevated position which directs the arrow toward the ground immediately upon release;
- v. Hunt only with a bow and arrow or crossbow;
and
- vi. Hunters must comply with all state and local laws, rules and regulations and the directions set forth in the Deer Management Plan of the Department of Natural Resources.

2. Hunting on village owned property is permitted with the following restrictions:

- i. Any cutting of trees, brush, lanes, or trails is prohibited;
- ii. The conducting of deer drives (on foot or motorized) is prohibited;
- iii. Permanent free standing or tree stands are prohibited;
- iv. Permanent ladders, or nailed on or screw-in steps affixed to any tree are prohibited;
- v. Portable tree stands and ladders must be removed daily;
- vi. Hunting in any city park or on school grounds is prohibited;
and
- vii. Hunters who harvest deer or large animals are to clean up all entrails.

(2) Reckless Conduct Defined. “Reckless Conduct” consists of an act which creates a of unreasonable risk and high probability of death or great bodily harm to another which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

(3) Reckless Use of Weapons.

(a) Dangerous Weapon Defined. “Dangerous weapon” means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(4) Acts Prohibited.

- (a) No person shall endanger another’s safety by reckless conduct in the operation or handling of any dangerous weapon.
- (b) No person shall operate or go armed with a dangerous weapon while he is under the influence of an intoxicant.
- (c) No person shall intentionally point a dangerous weapon toward another person.

11.2.2 CARRYING CONCEALED WEAPONS

(A) **Definitions.** The following words, phrases, and terms wherever they occur in this Code, shall be interpreted as herein defined. Words not herein defined shall have their ordinary meaning.

(1) Firearm: A weapon that acts by force of gunpowder.

(2) Law Enforcement: Any person employed by the State of Wisconsin, or any political subdivision of this state, for the purpose of detecting and prevention crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.

(3) Weapon: A handgun, an electronic weapon as defined in Wis. Stats. 941.295, a knife other than a switchblade under Wis. Stats. 941.24, or billy club.

(B) **Prohibitions on firearms or weapons.**

(1) The prohibitions on carrying of firearms and weapons as enumerated in Wis. Stat. §175.60 are incorporated herein by reference as though set forth verbatim;

(2) No person other than a law enforcement officer shall enter any of the following buildings owned, occupied or under the control of the Village while carrying a weapon.

- (a) Municipal Building;
- (b) Public Works Garage
- (c) Water Plant
- (d) Waste Water Plan; and
- (c) Public Safety Building.

(C) **Signs.** Signs meeting the requirements of Wis. Stats. §943.13(2)(bm)1, shall be posted in prominent places near all entrances of such building listed in subsection (3), above, to provide notice that no person is to enter or remain in any such building while carrying a weapon or firearm.

(D) Any person who enters or remains in any Village building owned, occupied or under control of the Village listed in subsection (b)(2) above while carrying firearms may be reported for prosecution for trespassing or may be cited under this code and be subject to the penalty as prescribed under Wis. Stats. § 943.13.

11.2.3 THIS SPACE RESERVED FOR FUTURE USE

11.2.4 SALE AND DISCHARGE OF FIREWORKS RESTRICTED

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

11.2.5 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

- (A) **Definitions.** As used in this Chapter, the following terms shall have the following meanings unless the context clearly indicates that a different meaning is intended.
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
 - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Marathon City.
 - (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
 - (4) **Sidewalk.** Any Sidewalk owned or maintained by the Village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (B) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

11.2.6 LOITERING PROHIBITED

(A) Public Property Loitering Prohibited.

- (1) No person shall loiter in or about any public street, public sidewalk, street crossing alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.
- (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
- (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate.

(B) Private Property Loitering Prohibited.

- (1) No person shall loiter in or about any private premise or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places.
- (2) No person shall loiter in or about the doorway, stairway, steps or entrance of any business place at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed.
- (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.
- (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

- (5) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein.
- (6) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.

(C) **Prowling Prohibited**

- (1) No person shall loiter in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Sub-Section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

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

- (1) Underage Persons and Intoxicants. No underage person shall loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (2) Permitting Loitering Prohibited. No person of legal drinking age shall permit any underage person to loiter in any public or private place, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(E) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution.

(1) Public Place is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.

(2) Known Prostitute or Panderer means a person who, with five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any court of offense involving prostitution.

11.2.7 LOUD AND UNNECESSARY NOISE PROHIBITED

(A) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.

(B) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

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

- (7) Construction or repair of building. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Chief of Police shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
- (8) Schools, courts, churches, hospitals. The making of any excessive noise, which unreasonably interferes with the normal operation of a school, court, church or hospital provided that conspicuous signs are displayed indicating the presence of a school, court, church or hospital.
- (9) Exceptions. The provisions of this Section shall not apply to:
- (a) Any vehicle of the village while engaged in necessary public business.
 - (b) Excavations or repairs of streets or other public construction by or on behalf of the village, county, or state at night when public welfare and convenience renders it impossible to perform such work during the day.

SEC. 11.2.8 DISORDERLY CONDUCT

- (A) **Disorderly Conduct Prohibited.** No person within the village:
- (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance or tends to annoy or disturb any other person;
 - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation;
 - (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
 - (4) Indecently expose his or her person;

(5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.

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

11.2.9 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY

(A) **Unauthorized Presence.**

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

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

(3) “Authorized person” shall include:

(a) Any person who is present at any school building or school ground for the purpose previously authorized by the school or their designee;

(b) Any person transporting a student and who utilized the driveway specified for loading and unloading personnel;

(c) Any person utilizing a designated area for attending an athletic or other organized school event.

(B) **Disorderly Conduct on School Property.**

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

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

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

(D) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property unless permitted by lawful authority.

11.2.10 FAILURE TO OBEY LAWFUL ORDER; RESISTING AN OFFICER

(A) **Lawful Orders.** It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

(B) **Resisting or Interfering with Officer.** It shall be unlawful for any person to resist or in any way interfere with any police officer or member of the police department or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person, or to in any way interfere with or hinder or prevent him from discharging his duty as such officer or assistant.

- (a) It shall be unlawful to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his official capacity in carrying out his duties.

11.2.11 POSSESSION OF CONTROLLED SUBSTANCES; MARIJUANA

(A) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this Code.

(B) **Possession of Marijuana.**

(1) No person shall possess twenty-five (25) grams or less of marijuana, as defined in Sec. 961.01(14), Wis. Stats., unless it was obtained directly from, or pursuant to, valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.

(2) For purposes of this Section, “practitioner” means:

(a) A Physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

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

(3) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.

11.2.12 Synthetic Cannabinoid Prohibited

(A) **Possession, use and sale are illegal.** It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, “Yucatan Fire”, “Fake” or “New” marijuana, or by any other name, label or description:

- (1) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10atetrahydrobenzo(c) chromen-1-ol some trade or other names: HU-210.
- (2) 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018\spice.
- (3) 1-Butyl-3-(1naphthoyl) indole-some trade or other names: JWH-073.
- (4) 1-(3{trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP.
- (5) Any substance which is a cannabinoid receptor agonist (CRA). “Cannabinoid receptor agonist” means a substance that has an affinity for and stimulates physiological activity in a cannabinoid receptor within the human brain.
- (6) Any similar structural analogs.

(B) **Medical or dental use allowed.** Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(C) **Penalties**

- (1) Possession/use. A forfeiture of two hundred dollars (\$200.00) to five hundred dollars, (\$500.00) exclusive of costs.
- (2) Sale. A forfeiture of two thousand dollars (\$2000.00) to three thousand dollars, (\$3000.00) exclusive of costs.

Sec. 11.2.13 HARASSMENT

- (A) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of following; each instance shall be considered a separate violation:
- (1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.
 - (2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.
- (B) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code.
- (1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
 - (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
 - (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
 - (4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
 - (5) Knowingly permits any telephone under his control to be used for any purpose prohibited by this Section.
 - (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

11.2.14 CROSSING A POLICE LINE

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

ARTICLE 3
Offenses Against Property

- 11.3.1 Destruction of Property Prohibited
- 11.3.2 Littering Prohibited
- 11.3.3 Abandoned Refrigerators Prohibited
- 11.3.4 Theft of Library Material
- 11.3.5 Cemetery Regulations
- 11.3.6 Reserved for Future Use
- 11.3.7 Retail Theft
- 11.3.8 Issuance of Worthless Checks
- 11.3.9 Trespass to a Dwelling or Land
- 11.3.10 Regulations of Smoking
- 11.3.11 Theft Prohibited

11.3.1 DESTRUCTION OF PROPERTY PROHIBITED

- (A) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the Village of the school district, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the village without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities.
- (B) **Penalties.** In addition to the general penalty of this Code or any other penalty imposed for violation of any Section of this Chapter, any person who shall cause physical damage to or destroy any public or private property shall be liable for the cost of replacing or repairing such damaged or destroyed property.
- (C) **Parental Liability.** The parents of any un-emancipated minor child who violates this Section 11.3.1 may also be liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code shall prevent the Police Department from referring violations of the provisions of this Article to the District Attorney's office.

11.3.2 LITTERING PROHIBITED.

- (A) **Littering Prohibited.** No person shall throw any refuse, waste, or other litter upon streets, alleys, highways, public parks or any public or private other property of the village, or upon the surface of any body of water within the village.
- (B) **Litter from Conduct of Commercial Enterprise.**
- (1) Scope. The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any streets, alleys, highways, public parks or any public or private other property of the village or upon the service of any body of water within the Village.
- (2) Litter to be cleaned up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
- (3) Litter picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by 11.3.2(b)(1) within the time specified, the village shall arrange to have the same picked up by village personnel or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not paid, the village may pursue collection as authorized by law. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(C) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, grass leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, manure, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the village Administrator or Director of Public Works or upon any private property without the consent of the owner or lessee of the property. The owner of any equipment or objects placed upon any street, sidewalk or property shall be responsible to property mark or barricade the area so as to prevent a safety hazard. The responsible party shall be responsible for clean-up and all costs associated with clean-up and other penalties may apply.

(D) **Handbills.**

(1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the village except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.

(2) Papers in Public Places Prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place. Section 11.3.2(2) shall not prohibit the sale of newspapers in vending machines.

11.3.3 ABANDONED REFRIGERATORS PROHIBITED

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded freezer, refrigerator or other container what has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing the door or lid, snap lock or other locking device from the freezer, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

11.3.4 THEFT OF LIBRARY MATERIAL.

- (A) **Definitions.** For the purpose of this Section, certain words and terms are defined as follows:
- (1) Archives. A place in which public or institutional records are preserved.
 - (2) Library. Means any public library, library of an educational or historical organization or of society or museum, and specifically the public libraries within the village and school libraries.
 - (3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.
- (B) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and Village Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last known address of the person with the overdue material; the notice date shall be the date of mailing.
- (C) **Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which 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 intentional concealment on the part of the person so concealing the material.

- (D) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any library material. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in the general penalty provisions of this code.

- (E) **Return Demanded.** No person shall fail, on demand, to return any library material according to the rules or regulations duly made and adopted by the Library Board and no person shall remove from the library any library material without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this Subsection shall be subject to the penalties as set forth in the general penalty provision of this code.

11.3.5 CEMETARY REGULATIONS.

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

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

- (2) Protection of Cemetery Property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic within any cemetery in any manner without the authorization of the owner and in any manner except as provided by this Code; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. (No picnic, parties, or similar gatherings are permitted in any cemetery.
- (3) Motor Vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specified. Operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.
- (4) Speed Limit. No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.
- (5) Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
- (6) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.
- (7) Sound Devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.

- (8) Authorized Notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- (9) Loitering Prohibited. No person shall loiter or cause a nuisance on any cemetery property.
- (10) Alcoholic Beverages Prohibited. No person shall consume or have in is possession any open container containing an alcohol beverage upon any cemetery property within the village unless the property is specifically named as being part of a licensed premises.
- (11) Play Vehicles Prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (12) Presence After Hours Prohibited. No person shall be present upon any cemetery property without the owner's consent during hours when the cemetery is not open to the public.

11.3.6 RESERVED FOR FUTURE USE

11.3.7 RETAIL THEFT.

- (A) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in the general penalty provisions of this code.

- (B) The intentional concealment of un-purchased merchandise which continues beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of un-purchased merchandise concealed upon the person or their belongings is evidence of intentional concealment on the part of the person so concealing such goods.

SEC. 11.3.8 RESERVED FOR FUTURE USE

SEC. 11.3.9 TRESPASS TO A DWELLING OR LAND.

- (A) **Trespass to Land.** No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- (B) **Trespass to Dwelling.** No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premise.

11.3.10 REGULATION OF SMOKING

- (A) Wisconsin Statute §101.123 is hereby adopted by reference.

11.3.11 THEFT PROHIBITED.

- (A) **Definitions.** The following definitions shall be applicable in this Section:
 - (1) “Property” means all forms of tangible property, whether real or personal, Without limitations including electricity, gas and documents which represent or embody a choice in action or other intangible rights.
 - (2) “Movable Property” is property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights, and things growing on or affixed to or found in land.
 - (3) “Value” means the market value at the time of the theft or the cost to the victim of replacing the property within the reasonable time after the theft, whichever is less, if the property stolen is a document evidencing a choice in action or other intangible right, value means either the market value of the chose in action or other right or the intrinsic value of the document whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.
 - (4) “Property of Another” includes property in which the actor is a co-owner and property of a partnership of which the actor is a member unless the actor and the victim are husband and wife.

(b) **Acts.** Whoever does any of the following may be penalized as provided by Section 1.1.6 of this Code.

- (1) Intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property.
- (2) By virtue of his office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his authority, and with intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his possession or custody by virtue of his office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his own use within the meaning of this Subsection.
- (3) Having a legal interest in movable property, intentionally and without consent, take such property out of the possession of the pledgee or such other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- (4) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- (5) Intentionally fails to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement, within ten (10) days after the lease or rental agreement has expired.

ARTICLE 4
Offenses Involving Alcoholic Beverages

- 11.4.1 Outside Consumption
- 11.4.2 Sale to Underage or Intoxicated Persons Restricted
- 11.4.3 Underage Persons; Presence in Places of Sale; Penalty
- 11.4.4 Underage Persons; Prohibitions; Penalties
- 11.4.5 Defense of Sellers
- 11.4.6 Persons Who Have Attained the Legal Drinking Age; False or Altered ID Cards
- 11.4.7 Possession of Alcohol Beverages on School Ground
- 11.4.8 Social Host
- 11.4.9 Adult Permitting or Encouraging Underage Violation
- 11.4.10 Reserved for Future Use

11.4.1 OUTSIDE CONSUMPTION

(A) Definitions.

- (1) As used in this Chapter, the term “alcoholic beverage” means fermented malt beverages and intoxicating liquor. §125.02(1)
- (2) As used in this Chapter, the term “fermented malt beverages” means any beverage made by the alcohol fermentation of an infusion in potable water of barley malt and hops containing 0.5% or more alcohol by volume. §125.02(6)
- (3) As used in this Chapter, the term “intoxicating Liquor” means all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing 0.5% or more of alcohol by volume, which are beverages, but does not include “fermented malt beverages.” §125.02(8)

- (4) As used in this Chapter, the term “wine” means products obtained from the normal alcohol fermentation of the juice or must of sound, ripe grapes, other fruits or other agricultural products, imitation wine, compounds sold as wine, vermouth, cider, perry (made from pears), mead (made from fermented honeys and water) and sake, if such products contain 0.5% or more alcohol by volume. §125.02(22)
- (5) As used in this Chapter, the term “public area” shall be construed to mean any location within the village 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.
- (6) As used in this Chapter “underage person” shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7.2.19 (E)

(B) Alcoholic Beverages in Public Areas.

- (1) Regulations: It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the following described territory in the village or on private property without the owner’s consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the village.
- (2) Parks. No person shall consume or be in possession of any open container containing intoxicating liquors, wine or fermented malt beverages while in any Village park between the hours of 11:00 p.m. and 7:00 a.m. inclusive.
- (3) 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 Village unless the property is specifically named as being part of a licensed premises.

(4) Exceptions

- (a) The provisions of this Section may be waived by the Village Board for duly authorized events.
- (b) Any organization which has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area pursuant to this Code, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.
- (c) Cross Reference to Section 7.2.19 of this code of ordinances.

(5) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Fifty Hundred Dollars (\$150.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

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

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

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

- (2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous similar violation within Twelve (12) months of the subject violation.
- (3) In addition to the forfeitures provided in Subsection (1) and (2) above, a court shall suspend any license issued under Chapter 125, State Statutes, to a person violating this subsection for:
 - (a) No more than three (3) days, if the court finds that the person committed a similar violation within twelve (12) months after committing one (1) previous violation of this subsection; or
 - (b) Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a similar violation within twelve (12) months after committing two (2) violations of this subsection; o
 - (c) Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed a similar violation within twelve (12) months after committing three (3) violations of this subsection.

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

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

State Law Reference: Sec. 125.07, Wis. Stats.

11.4.3 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE; PENALTY

- (A) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises. The business may not be amusement or the purchase, receiving or consumption of 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 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 alleys, service stations, vessels, athletic fields, stadiums or public facilities as defined in Sec. 125.51 (5)(b) 1.d, Wis. Stats. which are owned by a county or Municipality.
 - (4) Premises operated under both a Class "B" alcoholic beverage or Class "B" fermented malt beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" alcoholic beverage or Class "B" fermented malt beverage 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.
 - (5) An underage person who enters or remains on a Class "B" alcoholic beverage or Class "B" fermented malt beverage 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.

- (6) A person who is at least eighteen (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.
 - (7) 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 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 Subsection.
 - (8) An underage person who enters or remains in a dance hall attached to Class “B” or Class “B” licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.
- (B) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not less than One Hundred Fifty Dollars (\$150.00) and not more than Five Hundred Dollars (\$500.00).

11.4.4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

- (A) Except as provided in Sec. 125.07(4)bm, Wis. Stats., any underage person not accompanied by his or her parent, guardian or spouse who has not attained the legal drinking age who knowingly possesses, consumes, procures, knowingly attempts to enter or is on a licensed premise in violation of 11.4.3(a) or falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee is guilty of a violation pursuant to the current State Statutes.

11.4.5 RESERVED FOR FUTURE USE

11.4.6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE; FALSE OR ALTERED IDENTIFICATION CARDS.

- (A) Any person who has attained the legal drinking age, who makes, alters or duplicates, an official identification card may be fined not less than Three Hundred Dollars (\$300.00) nor more than One Thousand Two Hundred and Fifty Dollars (\$1,250.00) or imprisoned not less than ten (10) days nor more than thirty (30) days or both.

- (B) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Three hundred Dollars (\$300.00) nor more than One Thousand Two Hundred and Fifty Dollars (\$1,250.00) or imprisoned not more than ten (10) days nor more than thirty (30) days or both.

- (C) Any underage person, age 17 to 20, who 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. Under Wis. Stat. 125.085(3)(b) a law enforcement officer shall confiscate any card that violates this subsection.

State Law Reference: Sec. 125.085, Wis. Stats.

11.4.7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS PROHIBITED

(A) In This Subsection:

- (1) “Motor vehicle” means a motor vehicle owned, rented or consigned to a school.
- (2) “School” means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
- (3) “School administrator” means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
- (4) “School premises” means premises owned, rented or under the control of a school.

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

- (1) On school premises;
- (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
- (3) While participating in a school-sponsored activity.

(B) 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.

(B) **Penalties.** A person who violates this Subsection is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that State Statute 125.07(4)(c) and (d) and 938.44 provide the penalties applicable for underage persons.

11.4.8 SOCIAL HOST

- (A) **Definitions:** For the purpose of this chapter, the following terms have the following meaning:
- (1) “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
 - (2) “Alcohol beverage” means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
 - (3) “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
 - (4) “Host” or “allow” means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.
 - (5) “Parent” means any person having legal custody of a juvenile.
 - (a) As natural, adoptive parent or step-parent;
 - (b) As a legal guardian; or
 - (c) As a person to whom legal custody has been given by order of the court.
 - (6) “Residence”, “premises”, or “public or private property” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.
 - (7) “Underage person” is any individual under twenty-one (21) years of age.
 - (8) “Present” means being at hand or in attendance.

- (9) "In control" means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.
- (B) The Village Board intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons civilly responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol.

The Village Board Finds:

- (1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (2) Prohibiting underage consumption acts to protect persons under 21 years of age, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol related traffic collisions.
- (3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.
- (5) A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

(C) **Prohibited acts.** It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that a person under 21 years of age will or does consume any alcohol or alcoholic beverage; or possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(1) A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(2) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

(D) **Exceptions.**

(1) This chapter does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.

(2) This chapter does not apply to legally protected religious observances.

(3) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(E) **General Penalties.** A person who violates any provision of this ordinance is subject to a forfeiture of not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), together with the costs of prosecution.

11.4.9 ADULT PERMITTING OR ENCOURAGING UNDERAGE, VIOLATION.

- (a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 11-4-4(a).
- (c) A person who violates this Section is subject to a forfeiture in accordance with the current bond schedule.

11.4.10 RESERVED FOR FUTURE USE

ARTICLE 5
Offenses by Juveniles

- 11.5.1 Jurisdiction Over Juveniles
- 11.5.2 Curfew
- 11.5.3 Truancy
- 11.5.4 Harboring, Aiding, Assisting and Abetting Minor Runaways
- 11.5.5 Purchase or Possession of Tobacco Products

11.5.1 JURISDICTION OVER JUVENILES

- a. **Adoption of state statute.** Wis. Stats. §938.17, Wis. Stats. §938.343, Wis. Stats. §938.344, Wis. Stats. §938.355(6), and Wis. Stats. §814.63 is adopted and by reference made a part of this section as if fully set forth in this section.
- b. **Provisions of Code Juveniles.** Subject to the provisions of limitations of Wis. Stats. § 938.17, 938.343, 938.344, and 938.355(6) complaints alleging a violation of any provision of this Code and Wis. Stats. § 938.343 against juveniles may be brought on behalf of the village and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- c. **Additional prohibited acts.** In addition to any other provisions of this Code, no under age person as defined in Wis. Stats § 125.02(20m) shall violate any provision of Wis. Stats. Ch. 125.
- d. **Penalties.**
 - (1) **Violation of Wis. Stats. § 125.** The penalties for a violation of any provision of Wis. Stats ch. 125 incorporated in this Code by reference shall be in conformity with bond schedule as adopted by the Village or that State Uniform Bond Schedule.
 - (2) **No incarceration as penalty.** Except as might otherwise be provided by law, the court shall not impose incarceration as a penalty for any juvenile convicted of an offense prosecuted under this section.

- (3) **Forfeitures.** Except as otherwise provided, any juvenile who shall violate any provision of this Code shall be subject to a forfeiture in conformity with Wis. Stats. § 938.344(2), (2b), (2d), (2e), 961.573 (2), 961.574(2), 961.575(2).
- (e) **Victim notification.** Each known victim of a child’s act shall receive timely notice of the information required under Wis. Stats. § 938.346, which statute is incorporated in this section by reference.

11.5.2 CURFEW

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

Curfew hours means 12:01 a.m. until 6:00 a.m. on any Sunday, Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.

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

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

Guardian means:

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

Minor means any person prosecutable per Wis. Stat. §48.02(2).

Operator means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation LLC and LLP.

Parent means a person who is:

- (1) An natural parent, adoptive parent or stepparent of another person; or
- (2) At least 18 years of age and authorized by a parent to have the care and custody of a minor.

Public place means any place to which the public or a substantial group of the public has access, including but not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

Remain means to:

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

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

(B) **Offenses**

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

(C) **Defenses**

- (1) It is a defense to prosecution under subsection (b) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the village, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or had disabilities of minority removed in accordance with the law.

- (2) It is a defense to prosecution under subsection (b)(3) that the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
- (D) **Enforcement.** Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not Issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (c) is present and complies with Wis. Stats. § 48.19(1)(d)(8).
- (E) **Penalties.** Any persons in violation of this section shall upon conviction therefore forfeit not less than One Hundred Fifty Dollars (\$150.00) nor more than Two Hundred Fifty Dollars (\$200.00).

11.5.3 TRUANCY

- (A) **Definitions.** For the purposes of this section:
- (1) **Acceptable excuse.** Shall mean an acceptable excuse as defined in Wis. Stat. §118.15, or §118.16(4).
- (2) **Dropout.** Shall mean a pupil who ceased to attend school, does not attend a public or private school, technical college or home-based private educational system on a full time basis, has not graduated from high school and does not have an acceptable excuse under Wis. Stats. §118.15(1)(b)—(d), (3) and who is at least 16 years of age but less than 18 years of age.
- (3) **Habitual truant.** Shall mean a pupil who is absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.
- (4) **Truant.** Shall mean a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.

- (5) **Truancy.** (Shall) mean any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of the compulsory school attendance requirements set forth in Wis. Stats. §118.15.
- (6) **Attendance at school.** No parent, guardian or other person 18 years or older shall knowingly allow a child between the ages of six and less than 18, who is under his/her control to absent himself/herself from attendance at school without an “acceptable excuse.”
- (7) **Contributing to truancy.** No person 18 or older, by an act of omission, shall knowingly encourage or contribute to the truancy or habitual truancy of a child. An act or omission contributes to the truancy or habitual truancy of a child, whether or not the child is so adjudged, if the natural and probable consequences of that act of omission would be to cause the child to be truant.
- (8) **Allowing truancy.** Any parent, guardian or other adult who knowingly allows a child to absent him/herself from attendance at school without an “acceptable excuse” shall be in violation of this section.
- (B) **Habitual truant.** Any person who is deemed to be a “habitual truant” may be subject to one or more of the following dispositions by court:
- (1) The suspension of the habitual truant’s operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of the suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice stating the reason for and the duration of the suspension.
- (2) An order for the habitual truant to participate in counseling, or a supervised work program, or other community service work as described in Wis. Stats. §938.34(5)(g). The cost of any such counseling, supervised work program or community service work may be assessed against the habitual truant, the parents or guardian of the habitual truant, or both.

- (3) An order for the habitual truant to remain at home except during the hours in which the habitual truant is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a habitual truant to leave his/her home if the habitual truant is accompanied by a parent or guardian.
 - (4) An order for the habitual truant to attend an education program as described in Wis. Stats. §938.342(d).
 - (5) An order for the department of workforce development to revoke, under Wis. Stat. §103.70, and §103.72, any authorization authorizing the employment of the habitual truant.
 - (6) An order for the habitual truant to be placed in a teen court program as described in Wis. Stats. § 938.342(1)(g), (f).
 - (7) An order for the habitual truant to attend school.
 - (8) Any other reasonable conditions consistent with this section, including curfew, restrictions as to going or to remaining on specified premises and/or restrictions on associating with other children and/or adults.
 - (9) An order placing the habitual truant under formal or informal supervision, as described in Wis. Stats. § 983.34(2), for up to one year.
 - (10) An order for the habitual truant's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the habitual truant or both.
- (C) **Dropout.** Any person who is deemed to be a "dropout" may be subject to the court suspending the person's operating privileges until the person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice stating the reason for and the duration of the suspension.

(D) **Penalties.**

- (1) **Truant.** Any person who is deemed to be a “truant” may be subject to one or more of the following dispositions by the court.
 - (a) An order for the person to attend school.
 - (b) A forfeiture of not more than One Hundred Fifty Dollars (\$150.00) plus costs for a first violation or a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00) plus costs for second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats § 983.37, and subject to a maximum cumulative forfeiture amount of not more than Five Hundred Dollars (\$500.00) for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the truant, the parents or guardian of the truant of both.
- (2) **Habitual Truant**

A forfeiture of not more than Five Hundred Dollars (\$500.00) plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the habitual truant, the parents or guardian of the habitual truant or both.
- (3). **Allowing Truancy.** Any parent, guardian or other adult who knowingly allows a child to absent him/herself from attendance at school without an “acceptable excuse” may be subject to a forfeiture of not less than One Hundred Fifty Dollars (\$150.00) plus costs nor more than Two Hundred Dollars (\$200.00) plus costs for the first offense; and not less than One Hundred Fifty Dollars (\$150.00) plus costs nor more than Two Hundred Fifty Dollars (\$250.00) plus costs for any subsequent offense within a one year period.

11.5.4 HARBORING, AIDING, ASSISTING AND ABETTING MINOR RUNAWAYS

- (A) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- (1) **Runaway** means an un-emancipated person under the age of 18 years who has been reported as a missing person runaway to any law enforcement agency and whose whereabouts is or was unknown to the parents, guardian or legal custodian.
- (B) **Harboring runaways prohibited.** It shall be unlawful for any person to knowingly harbor, allow, board or otherwise permit any runaway in his residence or business or other property under his control where such person knows or should have known the minor to be a runaway from his parent, guardian or legal custodian.
- (C) **Assisting runaways prohibited.** It shall be unlawful for any person to knowingly assist, aid or abet a runaway to escape apprehension or flee from his parents, guardian, legal custodian or public officials. This includes but is not limited to the following acts:
- (1) Providing transportation to the runaway;
 - (2) Providing money, clothing or any other useful instrument to the runaway that would aid the runaway in escape;
 - (3) Obstructing by providing false or untrue information regarding the location or plan of the runaway;
 - (4) Refusing to provide information to law enforcement officers when questioned about the runaway, which information was known to them at the time and would assist in the apprehension of the runaway; or
 - (5) Assisting, aiding or abetting the runaway in any other way for the purpose of hindering law enforcement officers or the parents, guardian or legal custodian of the runaway from learning the whereabouts of the child.

(D) **Exception.** Subsection (A) of this section does not apply to persons who harbor runaways by virtue of a placement by the juvenile court intake staff or any other court.

(E) **Penalty.**

(1) Any person violating this section shall upon conviction be subject to Section 1.1.12.

(2) Any person under the age of 18 who violates any of the provisions of this section shall upon conviction be subject to the penalties as provided in §48.343(2) Wis. Stats.

11.5.5 PURCHASE OR POSSESSION OF TOBACCO PRODUCTS.

(A) **Definition of Tobacco Products.** For the purpose of this Section, “tobacco products” means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

(B) **Purchase by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.

(C) **Possession By Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products; provided that the possession by a person under the age of eighteen (18) years under the direct supervision of the parent or legal guardian of such person in the privacy of the parent’s or guardian’s home shall not be prohibited.

(D) **Statutes Adopted.** The provisions of Sections 48.983, 134.66 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated herein.

(E) **Penalties.** Violations of Sections 11.5.4 by a person under the age of eighteen (18) shall be punishable according to current bond schedule. Nothing in this Section shall prevent the officer, in his discretion, from referring cases directly to the District Attorney’s Office or Children’s Court services.

**ARTICLE 6
PUBLIC NUISANCES**

11.6.1	Public Nuisances Defined
11.6.2	Public Nuisances Affecting Health
11.6.3	Public Nuisances - Things Prohibited
11.6.4	Other Prohibited Nuisances
11.6.5	Public Morals and Decency
11.6.6	Abandoned Vehicles, Machinery, Equipment, and Appliances on Public Lands
11.6.7	Exemptions and Permits
11.6.8	Abatement of Public Nuisances / Permit Revocation
11.6.9	Costs of Abatement or Disposal
11.6.10	Enforcement Provisions
11.6.11	Property Maintenance Code
11.6.12	Chronic Nuisance Premises

11.6.1 PUBLIC NUISANCES DEFINED.

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (A) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (B) In any way render the public insecure in life or in the use of property;
- (C) Greatly offend the public morals or decency;
- (D) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

11.6.2 PUBLIC NUISANCES AFFECTING HEALTH.

No person may create, contrive, erect maintain, cause, continue, install, construct, or permit to exist in the Village a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to the public health or safety. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11.6.1.

- (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.** Accumulation 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 of water by sewage, creamery or industrial wastes or other substances.
- (H) **Noxious Odors, Etc.** Any use of property, substances or things within the village or within one and one half (1 ½) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village.

- (I) **Street Pollution.** Any use of property which shall cause any unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- (J) **Animals at Large.** All animals running at large.
- (K) **Accumulations of Refuse.** Accumulations of refuse.
- (L) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the village limits or within one (1) mile there from in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

11.6.3 PUBLIC NUISANCES – THINGS PROHIBITED

No person may create, contrive, erect maintain, cause, install, construct, or permit to exist in the Village a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to the public health or safety. The following acts, omissions, places, conditions and things are 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 other provisions of this Code:

- (A) 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's safety.
- (B) All buildings erected, repaired or altered within the village limits in violation of the provisions of ordinances relating to materials and manner of construction of buildings and structures within that district.
- (C) 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, signal or sign.
- (D) 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) All limbs of trees which project over and less than fifteen (15) feet above the surface of a public sidewalk or street or less than ten (10) feet above any other public place.
- (F) All buildings or structures so old, dilapidated or out of repair as to be dangerous and unsafe, unsanitary or otherwise unfit for human use.
- (G) All abandoned and wrecked or dilapidated motor vehicles, buses, railroad cars and house trailers.
- (H) All wires over streets, alleys or public grounds which are strung less than thirteen (13) feet above the surface.
- (I) All loud, discordant and unnecessary noises or vibrations of any kind which tend to cause or create a disturbance.
- (J) All obstructions of and excavations in or under streets, alleys, sidewalks or crosswalks, except as permitted by ordinance or which, although being in accordance with ordinance, are kept or maintained for an unreasonable or illegal length of time after their purpose has been accomplished.
- (K) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- (L) All piles of dirt, wood or rubble located upon any property within the Village of Marathon City with the following exceptions.
 - (1) Dirt, wood or lumber which is being actively used in connection with an ongoing construction project.
 - (2) The storage of topsoil, fill material or lumber on the premises of a lumberyard, contract or storage yard or similar type establishment providing such business is a permitted use under the village zoning code.

- (3) The temporary storage of dirt, wood or lumber for a period not exceeding 90 days following the completion of a private subdivision development or construction project. In the event such material is not completely removed from the premises within 90 days by the owner of the property or the contractor responsible for the construction, the village shall cause the material to be removed with all costs associated with said removal to be assessed against the owner's property as a special charge pursuant to Wis. Stats. §66.60(16).

11.6.4 OTHER PROHIBITED NUISANCES.

No person may create, contrive, erect maintain, cause, install, construct, or permit to exist in the Village a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to the public health or safety. In addition to the acts, omissions, places, conditions and things declared to be public nuisances the following are declared to be a public nuisance:

- (A) All abandoned refrigerators, iceboxes and other containers having airtight doors or covers from which the doors or other covers have not been removed or which are not equipped with a device for opening from the inside.
- (B) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather obstructing traffic and free use of the streets or sidewalks.
- (C) Repeated or continuous violations of the ordinances of the village or the laws of the state relating to the storage of flammable liquids.

11.6.5 PUBLIC MORALS AND DECENCY.

No person may create, continue, erect, maintain, cause, install, construct, or permit to exist in the Village a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to public morals or decency. The following acts, uses, activities, things, occupations, places, or physical condition not properly and timely removed by the owner or occupant of the premises after written notice to remove from the Village Board to the owner or occupant to the premises where the public nuisance occurs, or to any person responsible for the creation, maintenance, or permitting of such nuisance in the Village, are specifically declared to be a public nuisance as follows:

- (A) **Bawdyhouse:** Pursuant to Wis. Stat. §823.09; whoever erects, establishes, continues, maintains, uses, occupies, or leases any building or part of a building, erection, or place to be used for the purpose of lewdness, assignation, or prostitution, or permits the same to be so used in the Village, is guilty of a nuisance and the building, erection or place in or upon which such lewdness, assignation, or prostitution is conducted, permitted, carried on, continued, or exists, and the furniture, fixtures, musical instruments, or contents used therewith for the same purpose, are declared a nuisance, and shall be enjoined and abated.
- (B) **Illegal Drug Houses.** Pursuant to Wis. Stat. §823.113 (1), any building or structure that is used to facilitate the delivery, distribution, or manufacture, as defined in Wis. Stat. §961.01 (6), (9), (13), respectively, of a controlled substance as defined in Wis. Stat. §961.01 (4), or a controlled substance as defined in Wis. Stat. §961.01 (4m) and any building or structure where those acts take place, is a public nuisance and may be proceeded against under Wis. Stat. §823.113.
- (C) **Criminal Gang Houses.** Pursuant to Wis. Stat. §823.113, any building or structure that is used as a meeting place of a criminal gang, as defined by in Wis. Stat. §939.22 (9), or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under Wis. Stat. §823.113.
- (D) **Gambling Houses.** Pursuant to Wis. Stat. §823.20, any gambling place, as defined in Wis. Stat. §945.01 (4)(a), is a public nuisance and may be proceeded against under Wis. Stat. Chapter 823.
- (E) **Illegal Alcohol Houses.** Pursuant to Wis. Stat. §125.14 (5), any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured, or rectified without a valid permit or license issued under Wis. Stat. Chapter 125 or 139, or where persons are permitted to drink alcohol beverages in violation of Wis. Stat. Chapter 125, is a public nuisance and may be closed until the activity in violation of Wis. Stat. Chapter 125, is abated. When the activity is abated, the building or place may be used for any lawful purpose.

11.6.6 ABANDONED VEHICLES, MACHINERY, EQUIPMENT, AND APPLIANCES ON PUBLIC LANDS.

No person shall leave unattended or store any vehicle, regardless of the vehicles physical condition, registration, or license held, any appliance, equipment, or machinery, or parts thereof, on any public street, public road, public highway, or other public property in the Village, including the road right-of-way, for such time and under such circumstances as to cause the vehicle, appliance, equipment, or machinery to reasonably appear to have been abandoned. When any vehicle, machinery, appliances, or equipment has been left unattended, parked, or stored on any public street, road, highway, or other public property, including a road right-of-way, within the Village for a period of more than 72 hours, the vehicle, structure, machinery, appliances, or equipment is presumed by the Village to be abandoned and a public nuisance and may be removed in accordance with §342.40 Wis. Stats., and the owner of the vehicle is subject to the imposition of forfeitures under §1.1.12 of this code of ordinances.

11.6.7 EXEMPTIONS AND PERMITS.

(A) Exemptions.

- (1) Any storage of junked vehicles or junked vehicle parts on private lands in the Village that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the storage of the vehicles or parts have been issued a permit and met the Junked Vehicle Permit requirements established by the Village Board in the Village Junked Vehicle Ordinance adopted under Wis. Stat. §60.22, is exempt from the provisions of Title 10, Article 5 applicable to storage of junked vehicles and junked vehicle parts. The exemption granted under this paragraph is strictly limited to the extent allowed by the permit.
- (2) Any operation of a junkyard on private lands in the Village that is in conformity with the local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the operation of the junkyard have obtained all proper and necessary federal, state, county, and municipal approvals, permits, or licenses for the operation of the junkyard on that privately owned premises under Wis. Stat. §84.31, is exempt from the provisions of Title 10, Article 5, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment or parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the approvals, permits, or licenses.

- (3) Any commercial motor vehicle salvage or motor vehicle retail sales business on private lands in the Village that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current motor vehicle salvage dealer license under Wis. Stat. §218.205, authorizing storage uses, operations, and activities at property locations in the Village or hold current motor vehicle dealer license under Wis. Stat. §218.0114, for salvage, sale, or storage operation and activities at a property location in the Village, and are actively engaged in the Villages, as determined in writing by the Village Board, in the commercial motor vehicle salvage or motor vehicle retail sales business on property in the Village is exempt from the provisions of Title 10, Article 5, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment of parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.
- (4) Any business engaged in retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on private lands in the Village that is in conformity with local zoning and land use regulation for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current and valid manufactured home dealers license under Wis. Stat. §101.951, or a current and valid recreational vehicle dealers license under Wis. Stat. §281.12, issued by the State of Wisconsin, and are actively engaged in the Village, as determined in writing by the Village Board, in the business of commercial retail sales of manufactured homes, mobile homes, caper trailers, or recreational vehicles on property in the Village is exempt from Title 10, Article 5, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment or parts thereof. The exemption granted under this paragraph is strictly limited to the extent allowed by the applicable license.
- (5) Any parking, storage, or other keeping outside of buildings in the Village of Marathon City of two or fewer unlicensed or unregistered vehicles or 2 or fewer boats, snowmobiles, or all-terrain vehicles, not registered with the State of Wisconsin, on private lands owned or leased by the owner or leaseholder of the vehicles that is in conformity with local zoning and land use regulation, even if the vehicles are not stored for the purposes of sale or repair, is exempt from the provisions of Title 10, Article 5, relation to the keeping and storage of unlicensed or unregistered vehicles.

- (6) Any parking, storage, or other keeping of any agricultural use vehicles in the open on private lands in the town that is in conformity with the local zoning and land use regulation by the owner or leaseholder of the land, if the vehicles are and can be used by the owner or leaseholder, without repair, for normal agricultural use in the village is exempt from the provision of Title 10, Article 5, applicable to junked vehicles, junked machinery, junked appliances, or junked equipment or parts thereof. Notwithstanding anything contained in the is paragraph, storage of inoperable junk or other unrepaired agricultural use vehicles on private property of any person more than 1 week in the open shall be deemed a violation of Title 10, Article 5, unless the storage is at a commercial implement repair location where the equipment or implements can and will be timely repaired and removed from the premises.

(B) Permits

- (1) Upon proper and timely application by an owner of occupant of the premises in the Village to the Village Clerk for a permit, and after a public hearing held by the Village Board, the Village Board may permit on public or private lands in the Village, with or without conditions and restrictions, any of the following:
 - (a) The storage in the open on private premises of vehicles, structures, machinery, appliances, or equipment in the Village that are subject to Title 10, Article 5.
 - (b) The maintenance of buildings, structures or dwellings in the Village that are subject to Title 10, Article 5.
 - (c) The storage, disposal, treatment, or discharge of items, waste, and materials in the Village that are subject to Title 10, Article 5.
- (2) A permit under this subsection B may be issued by the Village Board regardless of the ownership or possession right to the vehicles, implements, machinery, structures, equipment, appliances, buildings, dwellings, items, waste, or materials to be stored, maintained, disposed, treated or discharged.
- (3) The applicant shall be notified of the public hearing required under paragraph 1 at least 20 days prior to the public hearing by first class U.S. mailing to the last known address of the applicant noted on the application.

- (4) The permit shall be for a specific location, may be established for term of months or years, and may be re-issued upon application by the permit holder if the permit holder is in full compliance with this section and with the permit conditions and restrictions as issued.
- (5) The conditions and restrictions, if any, in the permit established by the Village Board for any permitted storage, maintenance, disposal, treatment, or discharge shall be reasonable restrictions and conditions to protect the public health, safety, and welfare of persons within the Village and to limit or negate potential public nuisances caused by the permitted storage, maintenance disposal, treatment or discharge. The conditions and restrictions shall be stated in writing and attached to the written permit upon issuance by the Village Board.
- (6) The owner or occupant of the permitted premises is responsible for compliance with the conditions and restrictions in the permit issued regardless of whether the owner or occupant of the premises has any legal or equitable interest in the vehicles, structures, machinery, appliance, or equipment subject to the permit.

11.6.8 ABATEMENT OF PUBLIC NUISANCES/PERMIT REVOCATION

(A) Inspection of Premises.

- (1) Whenever a complaint is made to the Village Administrator or Police Chief, or any appropriate Village agent that a public nuisance under this Article or a violation of a permit issued under this Article exists within the Village, the Village Administrator or Police Chief shall promptly inspect or cause to be inspected the premises complained of and shall make a written report of its finding to the Village Board, which report shall thereafter be filed with the Village Clerk and kept of record in the office of the Village Clerk. Whenever practicable, the Village Administrator or Police Chief shall cause photographs to be made of the premises for inclusion in the written report to the Village Board.

- (2) If the person subject to the complaint holds a current permit under this Article, or any Village Building Permit or Junked Vehicle Permit issued under Wis. Stat. §175.25 the Village Administrator or Police Chief may immediately request the Village Board to hold a public hearing to consider suspension or revocation of the permit for refusal to comply with the permit conditions and this Article. The Village Board shall hold a public hearing prior to taking any action to revoke or suspend a permit. The permit holder shall be notified of the public hearing at least 20 days before the public hearing by First Class U.S Mail to the last known address of the permit holder noted on the permit or permit application.
 - (3) The Village Board may, as an alternative to revocation, suspend any issued permit for a period up to 6 months. Any revocation shall be for a period in excess of 6 months and no reapplication can be received or acted upon by the Village Board for the premises or for the owner or occupant of the premises for any activity, use or item prohibited by or requiring a permit under this Article during the revocation period.
 - (4) For any decision regarding the revocation or suspension of any permit, the Village Board shall determine and state the reason or reasons for any revocation, non-revocation, or suspension of the permit based on the lack of compliance with the permit condition and this Article by the permit holder or by any employees or agents of the permit holder. The reason or reasons for the decision shall be stated in writing and sent to the permit holder within 10 days after the decision by the Village Board by First Class U.S. Mail to the last known address of the permit holder noted or on the permit application.
- (B) **Owner of the Premises Responsibility.** Any owner or occupant of premises in the Village is responsible for compliance with the Article on the owner's or occupant's premises regardless of ownership of and responsibility for the uses, activities, or things located on the premises that are subject to this Article.

(C) **Summary Abatement.**

- (1) **Notice to Owner.** If the Village Administrator or Police Chief of the Village Board determine, by written notice to the Village Board, that a public nuisance exists under this Article within the Village on private or public premises and that there is great, immediate, and substantial danger or threat to the public health or safety, the Village Board, Village Administrator or Police Chief shall serve a written order upon the person who is causing, permitting, or maintaining a the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained. If immediate personal service cannot be made, one copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises or the person who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall be served by First Class U.S. Mail to the last known address for the owner or occupant of the premises. The order notice shall direct the owner or occupant to remove the public nuisance within 24 hours and shall state that unless the public nuisance is so timely abated, the Village may cause, due to the emergency conditions, the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or maintaining the public nuisance.
- (2) **Abatement by Village.** If the public nuisance is not abated within the time provided in the notice under paragraph (1) or if the owner, occupant, or person causing the public nuisance, if known, cannot be found, the Village Administrator or Police Chief, with the approval of the Village Board, shall cause the abatement or removal of the public nuisance by immediately seeking a court order that allows for the immediate enjoinder and abatement of the public nuisance.

(D) **Abatement by Court Action.** If the Village Board determines that a public nuisance exists on public or private premises but that the nature or the nuisance does threaten great, immediate, or substantial danger to the public health or safety, the Village Board shall file a written report of its resolution of its findings with the Village Clerk who shall, after approval and fining of the report or resolution by the Village Board, take one or more of the following actions as directed by the Village Board:

- (1) Issue and serve a written order to cease and desist the public nuisance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.

- (2) Issue and serve a citation for violation of this Article upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
 - (3) Cause the Village attorney to draft a formal civil complaint to be filed and served upon the alleged violators based upon an alleged violation of this Article or the conditions of any permit as issued or have drafted by the Village attorney to be filed and served a formal complaint for abatement of the public nuisance under Wis. Stat. §823.
- (E) **Other Methods Not Excluded.** Nothing in this Article may be construed as prohibition the injunction or abatement of public nuisances against any person, including against a permit holder that holds a current and valid permit issued by the Village under this Article, by the Village or its officials in accordance with the laws of the State of Wisconsin or this Article.

11.6.9 COSTS OF ABATEMENT

In addition to any other penalty imposed by this Article for the erection, contrivance, creation, continuance, or maintenance, of a public nuisance and violation of this Article, the cost of abatement of any public nuisance by the Village may be collected under this Article or Wis. Stat. §823.06, as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the costs of abatement may be assessed against the real property for services rendered and incurred by the Village to enjoin or abate the public nuisance as a special charge under Wis. Stat. §66.0627, unless paid earlier. If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed in violation of this Article, the Village Board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under Wis. Stat. §66.0139 by public auction or other means as determined in writing by the Village Board.

11.6.10 ENFORCEMENT PROVISIONS

- (a) **Penalty.**
 - (1) Any person violating this section shall upon conviction be subject to Section 1.1.12.

11.6.11 PROPERTY MAINTENANCE CODE

- (A) **FINDINGS AND DECLARATION OF POLICY.** It is hereby found and declared that there exists, in the village, structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance or further, that such conditions, including, but not limited to, structural deterioration, lack of maintenance and appearance of exterior of premises, infestation and existence of fire hazards, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the Village. It is further found and declared that, by reason of lack of maintenance and because of progressive deterioration, certain properties have the further effect of creating blighting conditions and initiating slums, and that if the same are not curtailed and removed, these conditions will grow and spread and will necessitate the expenditure of large amounts of public funds to correct and eliminate such conditions, that by reason of timely regulations and restrictions contained in this code, the desirability and amenities of residential and nonresidential used and neighborhoods may be enhanced and the public health, safety and welfare protected and fostered.
- (B) **PURPOSE.** The purpose of this section is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.
- (C) **DEFINITIONS**
- (1) **Deterioration.** The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating and applied in a workmanlike manner.
- (2) **Elements.** Any element, whether created by nature or by man, which, with reasonable foreseeability could carry litter from one place to another. Elements shall include, but not limited to, air current, rain, water current and animals.

- (3) **Exposed to Public View.** Any premises, or any part thereof, or any building, or any part thereof, which may be viewed by the public.
- (4) **Exterior of the Premises.** Open space on the premises outside of any building Thereon.
- (5) **Extermination.** The control and elimination of insects, rodents and vermin.
- (6) **Garbage.** Decayed and decomposed animal and vegetable waste resulting from the handling, preemption, cooking and consumption of food. (See also Refuse and Rubbish)
- (7) **Infestation.** The presence of insects, rodents, vermin or other posts on the premises, which constitute a health hazard.
- (8) **Litter.** Includes and un-containerized man-made or man-used waste which, if deposited within the Village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the citizens of the Village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle part, furniture, oil, carcass of a dead animal or nauseous or offensive matter of any kind or any object likely to injure any person or create a traffic hazard.
- (9) **Mixed Occupancy.** Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses or used as a hotel.
- (10) **Nuisance.**
 - (a) Any public nuisance, as defined by statute or this Title.
 - (b) Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
- (11) **Operator.** Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.

- (12) **Owner.** Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof. Any person who is a lessee subletting or reassigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the owner and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.
- (13) **Park.** A public or private park, reservation, playground, beach, recreation center or any public park private area devoted to active or passive recreation or any other area under the supervision of the village.
- (14) **Parking Lot.** Any private or public property with provisions for parking vehicles to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.
- (15) **Premises.** A lot, plot or parcel of land, including the buildings or structures thereon.
- (16) **Private Premises.** Any dwelling, house, building, or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or appurtenant to such dwelling house, building or other structure.
- (17) **Public Place.** All streets, boulevards, avenues, lanes, alleys or other public ways and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.
- (18) **Refuse.** All decayed and decomposed solid waste, except body wastes, including, but not limited to, garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes. (See also Garbage and Rubbish)
- (19) **Rubbish.** Solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials. (See also Garbage and Refuse)

- (20) **Garbage.** Food waste as from a kitchen or worthless matter.
 - (21) **Turf Grass.** Grass commonly used in regularly cut lawns or play areas such as, but not limited to, blue grass, fescue and rye grass blends.
 - (22) **Residential Premise.** A delineated, single family residence that is housed in a home, duplex unit, apartment complex, condominium or other residential dwelling.
- (D) **Blighted Property.** Any property on which there exists any one or more of the following conditions or activities is a blighted property for purpose of this chapter:
- (1) **Abandoned Building or Structure.**
 - (a) A building or structure which is not occupied, inhabited, used, or secured. For purposes of this chapter, a building or structure is unsecured when it is unlocked or the public can gain entry without the consent of the owner.
 - (b) Any partially constructed, reconstructed or demolished building or structure upon which work is abandoned. Work is deemed abandoned when there is no valid and current building or demolition permit or when there has not been any substantial work on the project for six (6) months.
 - (2) **Attractive Nuisance.** Property which is in an unsecured state so as to potentially constitute an attraction to children, a harbor for vagrants, criminals, or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful act;
 - (3) **A Building or Structure which is in a State of Disrepair.**
 - (a) Any building or other structure which by reason of rot, weakened Joints, walls, floors, underpinning, roof, ceilings, or insecure foundation, or other cause has become dilapidated or deteriorated.

- (b) Any building or other structure with exterior walls and/or roof coverings which have become so deteriorated as to not provide adequate weather protection and be likely to, or have resulted in, termite infestation or dry rot.
- (c) Buildings or structures with broken or missing windows or doors which constitute a hazardous condition or a potential attraction to trespassers. For purposes of this chapter “window” shall include any glazed opening, including glazed doors, which upon a yard, court, or vent shaft open unobstructed to the sky.
- (d) Buildings or structures including, but not limited to, walls, windows, fences, signs, retaining walls, driveways, or walkways which are obsolete, broken, deteriorated, or substantially defaced to the extent that the disrepair visually impacts on neighboring property or presents a risk to public safety. For purposes of this chapter “defaced” includes, but is not limited to, writings, inscriptions, figures, scratches, or other markings commonly referred to as “graffiti” and peeling, flaking, blistering, or otherwise deteriorated paint.

(E) **Property Inadequately Maintained.**

- (1) Property which is not kept clean and sanitary and free from all accumulations of offensive matter or odor including, but not limited to, overgrown or dead or decayed trees, weeds or other vegetation, rank growth, dead organic matter, rubbish, junk, garbage, animal intestinal waste and urine, and toxic or otherwise hazardous liquids and substances and material are prohibited. For the purpose of this section the term “rubbish” shall include combustible and noncombustible waste materials, except garbage; and the term shall also include the residue from the burning of wood, coal, coke, and other combustible material; and the term shall also include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, hay, straw, tin cans, metal, mineral matter, glass, crockery, and dust; and the term shall also include animal feed and the products of and residue from animal quarters.

- (2) Property which constitutes a fire hazard or condition considered dangerous to the public health, safety, and general welfare.
- (3) Property which is likely to or does harbor rats or other vectors, vermin, feral pets, or other non-domesticated animal nuisances.
- (4) Property which substantially detracts from the aesthetic and economic values of neighboring properties including, but not limited to, personal property and wares and foodstuffs, premises garbage and refuse receptacles, and commercial and industrial business activities which are inadequately buffered from any street, sidewalk, or other publicly trafficked area or such buffering which is inadequately maintained.
- (5) Landscaping which is inadequately maintained or which is not installed as required by village codes or any permit issued in accordance with such codes.
- (6) Matter including, but not limited to, smoke, odors, dust, dirt, debris, fumes, and sprays which is permitted to be transported by wind, or otherwise upon any street, course, alley, sidewalk, yard, park, or other public or private property and which is determined to be a violation of federal, state, regional, or local air quality regulations.
- (7) Property including, but not limited to, building façade, window, doorway, driveway, walkway, fence, wall, landscaped planter or area, sidewalk, curb and gutter, and edge of street pavement on which dirt, litter, vegetation, garbage, refuse, debris, flyers, or circulars have accumulated.
- (8) Property on which a swimming pool, pond, stream or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained, resulting in the water becoming polluted. "Polluted water" is defined for the purpose of this chapter, as water which contains bacterial growth, remains of garbage, refuse, debris, papers and any other foreign matter or material which constitutes an unhealthy or unsafe condition.

- (9) Parking lots, driveways, paths, and other areas used or intended to be used for commercial and industrial business activities including, but not limited to, dismantling, processing, transferring, handling, transporting, storing, compounding, or assembling which are inadequately maintained and pose a risk of harm to public health or safety including, but not limited to, unpaved surfaces which generate fugitive dust and paved surfaces with cracks, potholes, or other breaks.

- (10) Property on which recyclable materials, (paper, wood, petroleum products, tires, metals, plastics, waste products and vegetation) are openly stored. For the purposes of this chapter, “open storage” means storage on private property other than in a completely enclosed building. Materials shall be deemed to be held in “open storage” even though screened from public view, or view of residents of adjacent property, by a fence or other such partition.

- (11) Property which is not securely fenced or adequately lighted to prevent illegal access and activity related to the dumping of garbage, waste, debris and litter. “Recyclable materials” includes any materials, goods, vehicles, machinery, appliances, product or article, new or used, which is suitable for reuse.

(F) Property Which Creates a Dangerous Condition

- (1) Property having a topography, geology, or configuration which, as a result of grading operations, erosion control, sedimentation control work, or other improvements to said property, causes erosion, subsidence, unstable soil conditions, or surface or subsurface drainage problems as to harm or pose a risk of harm to adjacent properties.

- (2) Property where on any condition or object obscures the visibility of public street intersections to the public so as to constitute a hazard, including but not limited to, landscaping, fencing, signs, posts, or equipment.

(3) Conditions which due to their accessibility to the public pose a hazard including, but not limited to, unused and broken equipment, abandoned wells, shafts, or basements, hazardous or unprotected pools, ponds, or excavations, structurally unsound fences or structures, machinery which is inadequately secured or protected, lumber, trash, fences or debris that may pose a hazard to the public, storage of chemicals, gas, oil, or toxic or flammable liquids.

(G) **Applicability.** Every residential, nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for dwelling, mobile home park, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code.

(H). **Duties and Responsibilities of Owners and Operators.**

(1) **Maintenance of Exterior of Premises.** The exterior of the premises and all structures thereon shall be kept free of nuisances and any hazards to the safety of the occupant, pedestrians, or any other person utilizing the premises, and free of unsanitary conditions. Any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards, which include, but are not limited to, the following:

(a) Refuse, such as brush, weeds, broken glass, stumps, obnoxious growths, filth, garbage, trash and debris.

(b) Natural growth, such as dead and dying trees and limbs or other natural growth, which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.

(c) Overhangs, such as loose and other hanging objects, which, by reason of location above ground level, constitute a danger of falling on the persons in the vicinity.

- (d) Sources of infestation.
 - (e) The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor.
- (2) **General Maintenance.** The exterior of every commercial structure or accessory structure, except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass loose shingles, crumbling stone or brick, excessive peeling paint, loose boards or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blighting influences.
- (l) **Litter Control.**
- (1) **Litter Collections and Storage Area.** Every owner, occupant or lessee of a building used for residential, business or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized. Failure to so maintain clean litter collection and storage areas shall constitute a violation of this subsection.
 - (2) **Duty to Collect Litter Before it is Carried From the Premises.** All litter that is subject to movement by the elements shall be secured by the owner of the premises where it is found before the litter is allowed to be removed from the premises by the elements.
 - (3) **Neglected Premises Visible to the Public.** It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonable clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.

- (4) **Areas Around Business Premises.** The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations and hospital and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard to the condition or appearance of such premises so as to permit it to accumulate litter.
- (5) **Loading and Unloading Docks.** The person owning, operating or in control of loading or unloading docks shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.
- (6) **Construction Sites.** The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each workday and placed in containers, which will prevent litter from being carried from the premises by the elements.
- (7) **Maintaining Sidewalks and Alleys.** Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper, waste.
- (a) **Removal from Sidewalks.** Persons owning, occupying or in control of any premises or any parcel or lot which fronts upon or abuts any sidewalk shall keep sidewalk clear of all snow and/or ice. In the event of snow accumulating on the sidewalk due to natural and/or any other means, the sidewalk shall be cleared of all accumulated snow or ice within twenty-four (24) hours from the time the snow ceased to accumulate. Sidewalks are to be kept clear of snow and ice to their full width. Salt and/or sand may be used to permit safe travel for pedestrians.

- (b) **Notice and Removal of Snow from Sidewalks.** Persons owning, occupying or in control of any premises or any parcel or lot which abuts any sidewalks fails to keep the sidewalk clear of snow and ice as set forth in subsection (a), the Director of Public Works shall take the appropriate action and bill the owner of the sidewalk for snow and/or ice removal. If you fail to pay for this service, the Village Clerk shall add cost as a special charge to your property bill.
- (8) **Abandoned Garbage.** It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal, to allow that refuse, waste or garbage to remain uncollected for longer than 7 days or, in any case, until after that refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public place.
- (9) **Animal Excreta.**
- (a) **Allowing Discharge Regulated.** It is unlawful for any owner, keeper or walker of any dog or cat to have his dog or cat discharge such animal's excreta upon any public or private property within the Village other than the property of the owner of such dog or cat if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's excreta from the public or private property
- (b) **Carrying Feces Scoop Required.** No person shall walk a dog beyond the limits of his own property without carrying or having in his possession scoop, bag or other items designed to pick up and remove dog feces; and, further, it is unlawful for any person to dispose of the dog feces on public or private property other than his own.
- (c) **Exception.** This subsection shall not apply to blind persons having control of guide dogs.

(J) **Lawn and Yard Maintenance**

- (1) **General Requirements.** The owner or occupant of any lot or parcel in the Village which is 5 acres or less in area shall install and maintain landscaping, plantings and other decorative surface treatments, including turf grass, so as to present an attractive appearance in all court and yard areas in accordance with generally accepted landscaping practices in north central Wisconsin. For all new residential construction in the village, lawns shall be installed with one (1) year of the occupancy issuance date. For all new commercial and industrial construction, landscaping and lawn shall be installed eighteen (18) months from the issuance of the building permit. Lawns shall be maintained to a height not to exceed eight (8) inches. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and the village.
- (a) **Mowing Required.** No person owning property within the Village shall permit to grow or pollinate upon this premises any weeds, grasses or brush which cause or produce hay fever in human beings. In order to prevent such growth and pollination, it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses, weeds and brush exceeding eight (8) inches in height. The provisions of Sec. 66.0407 Wis. Stats. and Sec. 14.32 of the Village Code, are incorporated herein by reference.
- (b) **Mowing by Village.** It shall be the duty of the weed commissioner to enforce this section, and if any person shall fail to comply herewith, the commissioners shall, after five (5) days' written notice to the owner, cause the premises to be mowed and report the cost thereof in writing to the village Clerk in the manner provided in §66.0517 Wis. Stats. Such charge shall be spread on the tax roll as a special tax to be collected in the same manner as other taxes unless such lands are exempt from taxation and shall be defined by the village board in the village Schedule of Fees.

(c) Weeds and Plants Prohibited. The owners and occupants of all lawns shall destroy all of the following weeds and plants enumerated in Sec. 66.955 and 66.96, Wis. Stats.

(K) **Enforcement.** This section shall be enforced by the Administrator or other Village appointee. In addition, the Police Chief shall enforce sub. (b) above and the Weed Commissioner or other Village appointee shall enforce (c) above.

(L) **Penalty.** Any person who violates, disobeys, neglects or refuses to comply with any of the provisions of this section shall be subject to a forfeiture as provided in 1.1.12 of the Village code.

11.6.12 CHRONIC NUISANCE PREMISES

(A) **Declaration.** The village board finds that from time to time certain premises in the village require a disproportionate amount of village resources (including public safety services provided by the Marathon City Police Department) to be devoted to addressing various nuisances, criminal activities and other incidents that occur thereon. Often this disproportionate devotion of village resources is due to property owner's own actions or failure of the property owners to accept and exercise sufficient responsibility for and over the actions of occupants, guests, agents or employees that reside or frequent that premises. Such premises, as further described in subsection (B) below, are deemed chronic nuisance premises and are hereby recognized as a public nuisance due to the resource drain it causes the community as a whole. This section is enacted to encourage property owners and/or managers to engage in their responsibility to ensure that activities occurring on their property conform to the law and do not unduly burden the village's resources and to provide a mechanism for the village to take action against property owners who fail to ensure premises they own do not require a disproportionate devotion of resources to the premises. This section of the code is not intended to discourage crime victims or any person in legitimate need of police services from requesting them.

(B) **Determination of Chronic Nuisance Premises.**

Any residential premise to which a village department (including the Marathon City Police Department) responds to complaints of any nuisance activity, that results in a municipal citation or village enforcement action, three or more separate times within any sixty (60) day period is deemed to have received and required more than the general acceptable level of municipal services and places an undue burden upon the taxpayers of the village.

(1) For the purposes of this subsection, a nuisance activity shall be any offense(s) which violates the Village Code or their statutory counterparts, or any offense under state law for which a penalty under state law for which a penalty of forfeiture, fine or imprisonment is provided.

(2) Any non-resident owner of a residential premise available for lease or rent within the village that has had two (2) or more units designated as a chronic nuisance premise, shall be deemed a chronic nuisance landlord and shall be subject to the notice, abatement, hearing and penalties and remedies provisions found herein this ordinance. Further, the designation of a chronic nuisance landlord shall be posted in the village's official newspaper, website, and newsletter for the purpose of public awareness.

For the purposes of this subsection, a determination of chronic nuisance premises or the designation of a chronic nuisance landlord of a mobile home park shall be a reviewable item in consideration of renewal of the mobile home park's annual operating license under Wis. Stat. §66.058.

- (3) Any business or commercial venture to which a department responds to complaints of nuisance activity, that results in a municipal citation or village enforcement action, five (5) or more separate times within any sixty (60) day period is deemed to have received and required more than the general, acceptable level of municipal services, and places an undue burden upon the taxpayers of the village. For the purposes of this subsection, a nuisance activity is defined under section (D)(1) of this section. For the purposes of this subsection, a determination of a chronic nuisance premise that carries any class of village liquor license, shall be a reviewable item in consideration of the revocation of the premise's liquor license per Wis. Stat. §125.12(2) and shall be assigned the appropriate violation points as determined by the village alcohol beverage demerit point system.
- (4) For the purpose of this section, a residential unit or business venture shall automatically be designated as a chronic nuisance premise if any single nuisance is affiliated with illegal drug distribution or gang activity.
- (5) An offense shall not be considered a nuisance if it is committed by a person having no association with the premises by acquaintance with, relation to or expressed or implied invitation from the owner, occupant, operator, or agent of the premises.
- (6) An offense shall not be considered a nuisance if it is:
 - (a) An offense that results from the property owner/landlord's self-notification to a village official or the Marathon Police Department as a means of mitigating the nuisance or a crime;
 - (b) A report of domestic violence per Wisconsin Statutes.
- (7) Whenever any such premises exist, the Administrator or Chief of Police shall determine from the facts of each incident and considering the purpose of this subsection as set forth in Section (a) above, whether the premises is a chronic nuisance premises. A chronic nuisance premises shall be defined as a public nuisance.

- (C) **Notice.** Whenever the Village Administrator or Chief of Police finds a premise constitutes a chronic nuisance premises under section (a)(1), the Administrator or Chief of Police shall provide written notice of his determination to the owner of the premises as identified by the records of the Village Assessor and Marathon County Land Records. Such notice shall be delivered by certified mail, return receipt requested or by personal service. If the owner cannot be located, the notice shall be published as a Class 2 notice under Wis. Chapter 985. The notice shall contain the following information.
- (1) The street address and number, if applicable, otherwise the parcel number of legal description sufficient to identify the premises.
 - (2) A brief statement, including a description of the relevant activities supporting the determination that the premise is a chronic nuisance premises.
 - (3) A statement that the owner shall, with ten (10) days of receipt of the notice, or last day of publication if published, respond to the appropriate village administrator or Chief of Police requesting a hearing before the Village Board or proposing in writing a course of action that will be taken to abate the nuisance activities.
 - (4) A statement that owner shall immediately notify the village administrator or Police Chief of any change in address to ensure receipt of future notices.
- (D) **Owner Abatement.** If the owner responds to the notice in section (C) within ten (10) days of receipt of notice or the last day of publication if published with a nuisance abatement proposal, the village administrator or Chief of Police may accept, reject, or work with the owner to modify the proposal in his or her discretion. If the village administrator or Chief of Police rejects the abatement proposal, determines that an agreement on an appropriate abatement proposal cannot be reached or determines that owner abatement is for any reason unsuccessful, the matter shall be referred to the village board for hearing.

- (E) **Chronic Nuisance Landlord Abatement.** If the non-resident owner of residential premises available for lease or rent responds to the notice in section (c) within ten (10) days of the receipt or the of notice or the last day of publication with a nuisance abatement proposal for all units, the village administrator or Police Chief may accept, reject, or work with the owner to modify the proposal in his or her discretion and remove the designation of Chronic Nuisance Landlord. The designated Chronic Nuisance Landlord nuisance abatement proposal shall include remedies that shall be undertaken to mitigate chronic nuisances, which may include, but is not limited to, landlord-tenant screening, tenant education, tenant eviction procedures, and other preventative practices to improve the residential unit(s). If a non-resident owner of residential units for lease or rent abatement of a nuisance causes the number of nuisance premises to be reduced below the Chronic Nuisance Landlord threshold of (2) units or more units available for lease or rent, whatever is greater, the Village shall drop the designation of Chronic Nuisance Landlord.
- (F) **Hearing.** If a hearing is requested by the owner or if the village administrator or Police Chief determines that a satisfactory abatement plan cannot be agreed upon or if the Village Administrator or Police Chief determines that abatement actions taken by the owner are unsuccessful, a hearing shall be held before the Village Board. The owner shall receive ten (10) days written notice of the hearing sent by regular mail or, if the owner cannot be located, by publication of a Class 2 notice under Wis. Stat. §985. The Village Board shall hear any and all evidence it deems relevant and shall affirm or reverse the determination of the Village Administrator or Police Chief.
- (H) **Penalties and Remedies.**
- (1) If the village administrator or Police Chief's determination is affirmed, the Village Board may order the owner to pay the actual cost of village services to respond to any nuisance activities occurring after the three (3) responses that led to the determination that the premises was a chronic nuisance premises. Such costs shall be presented to the village board and may include costs incurred prior to the village board determination. The Village Board may order costs of all such calls to the chronic nuisance premises be paid until the public nuisance is abated. Such costs, plus a reasonable administrative charge, shall be billed to the owner by invoice sent by regular first class mail and if not paid with thirty (30) days of the date on the invoice shall be charged to the property as a special charge pursuant to Wis. Stat. §66.0627.
 - (2) The Village Board may authorize any other penalty or remedy authorized by law.

(I) **When Nuisance is Deemed Abated.** The public nuisance created by a chronic nuisance premises shall be deemed abated when no village resources have responded to the premises to address nuisance activities occurs for a period of six (6) consecutive months. The village administrator or Police Chief may also deem a chronic nuisance premise to be abated, if the occupant, which may include a tenant or resident-owner, vacates the premise.

(J) **Abatement of Public Nuisances**

(1) Inspection of Premises. Whenever a complaint is made to any village official or employee that a public nuisance exists within the village, said complaint shall be directed to the Administrator or Police Chief who shall in his or her reasonable discretion inspect or cause to be inspected the premises complained of and shall make a written report of his or her findings to the Village Administrator or Police Chief. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises.

(K) **Summary Abatement.**

(1) Notice to Owner. If the inspecting officer determines that a public nuisance exists within the village, the village administrator or Police Chief may serve notice personally or by certified mail on the persons causing, permitting, or maintaining such nuisance and/or upon the owner or occupant of the premises where such nuisance is caused, permitted, or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting, or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within a specified, reasonable period of time after consideration of all relevant circumstances and shall state that unless the same is done will cause the nuisance to be abated and will charge the cost thereof to the owner, occupant, or person causing, permitting, or maintaining the nuisance, as the case may be and that said costs may be collected as a special charge pursuant to Wis. Stat. §66.0627.

- (2) **Abatement by the village.** If the nuisance is not abated within the time provided or if the owner, occupant, or person causing the nuisance cannot be found, the village administrator or Police Chief shall cause the abatement or removal of such public nuisance. Wherever possible, costs of abatement shall be billed to the owner, occupant, or person causing the nuisance. If said costs are not paid within thirty (30) days of billing such costs, or if the owner, occupant or person causing the nuisance cannot be found, said costs may be collected pursuant to Wis. Stat. §66.027.
 - (3) **Other Methods Not Excluded.** Nothing in this section shall be construed as prohibiting the abatement of public nuisances by the village or its officials in accordance with the laws of the State of Wisconsin including, but not limited to an action under Chapter. 823 of the Wisconsin Statutes.
- (L) **Cost of Abatement.** In addition to any other penalty imposed by this Chapter for the erection, contrivance, continuance, or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.
- (M) **Penalty Provisions.**
- (1) **General Penalty.** Whenever so provided in this Code, any person who shall violate any provision of this Code shall upon conviction of such violations, be subject to a penalty, which shall be as follows:
 - (2) **First Offense – Penalty.** Any person who shall violate any provision of this Code subject to a penalty shall, upon conviction thereof, forfeit not more than two thousand five hundred dollars (\$2,500.) together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding ninety (90) days.

- (3) Any person found guilty of violating any provision of this Code who shall previously have been convicted of a violation of the same provision shall upon conviction thereof, forfeit not less than fifty dollars (\$50.00) nor more than two thousand five hundred (\$2,500.) for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not to exceed six (6) months.
- (4) What Constitutes a Separate Offense. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village of Marathon City from maintaining any appropriate action to prevent or remove a violation of any provision contained in this Code.
- (N) **Execution Against Defendant's Property.** Whenever any person fails to pay any forfeiture and costs of prosecution upon the order of the court for violation of any ordinance of the Village of Marathon City, the Court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for said forfeiture and costs.