

CHAPTER 11. OFFENSES AND NUISANCES

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STATE STATUTES ADOPTED

SEC. 11.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

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

		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
		941.23	Carrying Concealed Weapon
		941.235	Carrying a Firearm in a Public Building
		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
		943.15	Entry Into Locked Site
		943.20(3)(a)	Theft of Property
		943.21(3)(a)	Fraud on Innkeeper
		943.22	Cheating Tokens
		943.23(4),(5)	Operating Vehicle Without Owner's Consent
		943.24	Issuance of Worthless Checks
		943.34(1)(a)	Receiving Stolen Property
		943.37	Alteration of Property Identification Marks
		943.38(3)	Forgery
		943.41	Credit Card Crimes
		943.46	Theft of Cable Services
		943.50(4)(a)	Retail Theft
		943.55	Removal of a Shopping Cart
		943.61	Theft of Library Material
		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
29.288	Throwing Refuse in Waters		
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 of Protection		
48.983	Use of Tobacco Products		
50.58	Careless Smoking		
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		
125.07	Underage and intoxicated persons; presence on licensed premises; possession; penalties.		
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		
254.92	Purchase or possession of cigarettes or tobacco products by person under 18 prohibited.		
939.05(2)(b)	Aiding and Abetting		
939.22	Words and Phrases Defined		

945.02	Gambling	951.13	Providing Proper Food and Drink to Confined Animals
945.03	Commercial Gambling	951.14	Providing Proper Shelter
945.04	Permitting Premises to be Used for Commercial Gambling	951.15	Animals; Neglected or Abandoned; Police Powers
946.40	Refusing to Aid Officer	951.16	Investigation of Animal Cruelty Complaints
946.41	Resisting or Obstructing Officer	951.17.1	Reimbursement for Expenses
946.42(2)	Escape	961.41(3)	Possession of Marijuana
946.46	Encouraging Violation of Probation or Parole	961.571	Definitions "Drug Paraphernalia" Determination
946.65	Obstructing Justice	961.572	Possession of Drug Paraphernalia
946.69	Falsely Assuming to Act as Public Officer or Employee	961.573	Manufacture or Delivery of Drug Paraphernalia
946.70	Impersonating Peace Officer	961.574	Delivery of Drug Paraphernalia to a Minor
946.72(2)	Tampering with Public Records and Notices	961.575	Advertisement of Drug Paraphernalia
947.01	Disorderly Conduct	961.576	<i>Ordinance #2133 A 5/15/01 254.92</i>
947.012	Unlawful Use of Telephone		<i>Ordinance #2161 A 2/18/02 125.07</i>
947.013	Harassment		<i>Ordinance #2180 A 4/16/02 943.24</i>
947.015	Bomb Scares		<i>Ordinance # 2231 A 2/4/03 948.45 (1)</i>
947.047	Littering Shores		<i>Ordinance # 2315 A 7/20/04 943.46</i>
947.06	Unlawful Assemblies		
948.01	Definitions Relating to Crimes Against Children		
948.09	Sexual Intercourse With a Child Age 16 or Older	SEC. 11.02 ATTEMPT; PARTIES TO ACTS.	
948.10	Exposing a Sex Organ	(a) Attempt.	
948.11(1)(b), (2)(b)	Exposing a Child to Harmful Material	(1)	Whoever attempts to commit an act prohibited by Chapter 11 of the Code of Ordinances of the City of Oak Creek may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
948.21	Neglecting a Child	(2)	An attempt to commit an act prohibited by the ordinances in Chapter 11 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 or she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he or she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
948.40	Contributing to the Delinquency of a Child	(b) Parties to Acts.	
948.45 (1):	Contributing to truancy.	(1)	Whoever is concerned in the commission of an act prohibited by Chapter 11 of this Code of Ordinances, is a principal and may be charged with and convicted of the commission of said act although he or she 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.
948.50	Strip Search by School Employee	(2)	A person is concerned in the commission of an act prohibited by these ordinances if he or she:
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		

- a. Directly commits the act; or
- a. Intentionally aids and abets the commission of it; or
- b. 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 or her mind and no longer desires that the act be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

OFFENSES AGAINST PUBLIC SAFETY AND PEACE

SEC. 11.20 REGULATION OF FIREARMS, EXPLOSIVES, AND OTHER MISSILES.

- (a) **Discharge of Firearms Regulated.** Except for a law enforcement officer in the performance of an official duty, no person shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description in his/her possession or under his/her control within the City of Oak Creek, provided that this Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Common Council, or the firing or discharging of BB guns entirely upon private premises by persons over sixteen (16) or minors under the direct personal supervision of a parent or guardian.
- (b) **Hunting and Trapping Prohibited.** No person shall hunt or trap within the City of Oak Creek, as defined in Ch. 29, Wis. Stats. except live trapping with box traps, as defined in Ch. 29 Wis. Stats. to remove nuisance animals, including but not limited to skunks, raccoons, squirrels, and rabbits, or removal or transportation from one location to a more appropriate location.
- (c) **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm in such manner that the discharge shall enter or fall within the City of Oak Creek.
- (d) **Explosive Devices.** No person, except for a law enforcement officer in the performance of an official duty, shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Common Council or its authorized designee.
- (e) **Throwing or Shooting of Arrows, Stones, or Other Missiles Prohibited.**
 - (1) It shall be unlawful for any person to discharge or cause the discharge of any model rocket or dangerous missile from any sling-shot, spring gun or other means within three hundred (300) feet of any inhabited dwelling or building or any public park, square or enclosure.
 - (2) This Subsection shall not apply:
 - a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.
 - b. To a supervised archery range approved by the Common Council.
 - c. Within the interior of a single family dwelling.
- (f) **Shooting or Discharging a Bow and Arrow.**

- (1) Discharging any bow or other similar device, which is calculated to propel or project an arrow, shall be allowed on private property within the City of Oak Creek, provided that:
 - a. Shooting or discharging any bow or other similar device shall be for target practice only.
 - b. The parcel on which the bow or other similar device is being discharged shall be at least one (1) acre or more in size;
 - c. No person shall discharge an arrow with any bow or similar device where the arrow may endanger the life, limb or property of another or will traverse any part of any street, alley, public grounds or parks.
 - d. No person shall discharge an arrow with any bow or other similar device toward any habitable structure.
 - e. The target at which the arrow or other projectile is discharged shall not be less than five (5) feet high and five (5) feet wide, the target shall prevent an arrow from protruding through the rear side of said target, and it shall be located at least twenty (20) yards from a lot line and at least twenty (20) yards from a principal or accessory structure.
- (2) The Park and Recreation Department and the Oak Creek-Franklin Joint School District may conduct supervised archery activities in areas under their jurisdiction when authorized by the Police Chief.
- (g) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

Ordinance #2144 A 07/17/01 Sec. 11.20(d)

SEC. 11.21 CARRYING CONCEALED WEAPONS PROHIBITED.

- (a) **Concealed Weapons Prohibited.**
 - (1) **Prohibition.** No person shall, within the City of Oak Creek, wear or in any manner carry under his/her clothes or conceal upon or about his/her person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.
 - (2) **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 in-

strumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(b) **Concealed Weapons in Public Establishments.**

No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and concealed (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.

(c) **Specific Concealed Weapons Prohibited.** No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his/her person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the City of Oak Creek.

(d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**

(1) No person shall carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a “numchuk” (also called a “nunchaku”) or any similar weapon, a “cestus” or similar material weighted with metal or other substance and worn on the hand, a “churkin” (also called a “suriken”) or any similar object intended to injure a person when thrown, a “suchbai” or similar weapon, a “manrikigusari” or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the City of Oak Creek.

(2) For the purpose of this Section, the following definitions shall apply:

a. **“Numchuk” or “Nunchaku.”** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.

b. **“Churkin.”** A round throwing knife consisting of several sharp points protruding from a rounded disc.

c. **“Suchbai.”** A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

(3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

(e) **Fixed Blade Knife.** No person shall carry a fixed blade knife with a blade longer than three inches (3”).

SEC. 11.22 RESIDENTIAL PICKETING PROHIBITED.

(a) **Declaration.** It is hereby declared that the protection and preservation of the home is the keystone of democratic government; and that the public health and welfare and the good order of the community require that members of the community enjoy in their homes and dwellings a feeling of well-being, tranquility, and privacy, and when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings; that the practice of the picketing before or about residence and dwellings causes emotional disturbance and distress to the occupants; obstructs and interferes with the free use of public sidewalks and public ways of travel; that such practice has as its object the harassing of such occupants; and without resort to such practice full opportunity exists, and under the terms and provisions of this ordinance will continue to exist, for the exercise of freedom of speech and other constitutional rights; and that the provisions hereinafter enacted are necessary for the public interest to avoid the detrimental results herein set forth and are enacted by the Common Council of the City of Oak Creek pursuant to the provisions of Sec. 62.11(5), Wis. Stats.

(b) **Picketing Residence or Dwelling Unlawful.** It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual.

SEC. 11.23 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

(a) **Sale and Discharge of Fireworks Restricted.** It shall be unlawful within the limits of the City of Oak Creek for any person to sell, expose or offer for sale, use, keep or discharge or to explode any

fireworks, except toy pistol paper caps, sparklers and toy snakes on private property. The term “fireworks” as used in this Section shall be as defined in Sec. 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel, provided that it shall not be unlawful to use, keep or discharge rockets or similar missiles containing explosive fuel, if it is part of a school sponsored and supervised activity.

(b) **Storage and Wholesaling of Fireworks.**

- (1) **Restrictions.** Nothing in this Section shall be construed to prohibit any wholesaler or dealer from selling fireworks at wholesale, provided the same are shipped or delivered outside the limits of the City.
- (2) **Notification to Building Inspector.** It shall be the duty of every wholesaler or dealer, keeping or exposing for sale within the City fireworks of any description, to immediately notify the Fire Inspector of the receipt of such stock of fireworks, and the location where the stock of such fireworks is stored.
- (3) **Fire Extinguishers; No Smoking.** Fire extinguishers approved by the Fire Inspector shall be provided where fireworks are stored or handled. Smoking shall not be permitted where fireworks are stored and handled. All City fire codes shall be complied with.
- (4) **Storage Not Permitted In or Near Certain Buildings.** No such fireworks shall be stored in any building used for dwelling purposes, or in any building situated within fifty (50) feet of a building used for dwelling purposes, or places of public assemblage.

(c) **Pyrotechnic Displays, Blank Cartridges, Flares.**

Nothing herein contained shall prohibit the use of fireworks for pyrotechnic displays given by public authorities, fair associations, amusement parks, park boards, or civic organizations or in conjunction with neighborhood block parties approved by the City, provided that fireworks displays must be conducted by a pyrotechnic or fireworks company that meets the NFPA 1123 recommended requirements for licensing of an operator of a fireworks display, and provided further that the pyrotechnic or fireworks company shall provide liability insurance in an amount approved by the Fire Chief which names the City as an additional insured, and provided further that the fireworks display shall be approved in advance by the Oak Creek Fire Department and provided further that the pyrotechnic display shall be conducted in accordance with NFPA 1123 or any future revisions or amendments thereto and provided further that the public authority, fair association, amusement park, park board,

civic organization or a member of the block party or their insurer shall indemnify and hold harmless the City against any liability as a result of damages or injuries arising out of or resulting from the fireworks display. Any fireworks or pyrotechnic display conducted hereunder shall require a permit issued by the City Clerk. Any fireworks or pyrotechnic displays conducted hereunder shall be completed by no later than 10:00 p.m. The regulations in this Section do not prohibit the use or sale of blank cartridges for circus or theatrical purposes, for signal purposes in athletic contests or sporting events, or for the use by militia, police, or military organizations. The regulations of this Section shall not be construed to prohibit the use or sale of flares for railway signal or motor vehicle emergency warning purposes.

- (d) **Certain Fireworks Prohibited on Public Property.** It shall be unlawful within the limits of the City for any person to use, burn or ignite in a public place any sparkler, cap or “snake.” It shall not be unlawful for any person to burn, ignite or otherwise use on private property any sparkler, cap or “snake.”

Ordinance # 2196 A 07/03/02 Sec. 1123(c)

SEC. 11.24 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

- (a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City of Oak Creek in such a manner as to:
- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
 - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
 - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- (c) **Definitions.** As used in this Section and Section 11.25 below, 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 other-

wise 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 City of Oak Creek.

- (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 City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (d) **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 on 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.

SEC. 11.25 LOITERING PROHIBITED.

(a) Public Property Loitering Prohibited.

- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, public park or playground, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any police officer.
- (2) No person shall loaf or loiter in groups or crowds upon the public streets, public parks and playgrounds, alleys, sidewalks, street crossings or bridges or in any other public places within the City in such manner as to prevent, interfere with, or obstruct the ordinary free use of said public streets, sidewalks, streets, street crossings, and bridges or other public places by persons passing along and over the same.
- (3) 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.
- (4) 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.
- (5) No person shall loiter in or about any school or public place at or near which children or

students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

(b) Private Property Loitering Prohibited.

- (1) No person shall loiter in or about any private premises 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. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or 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 for the usual and normal business conduct thereat.
- (2) Upon being requested to move by any such person in authority or by any police officer, 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 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.

- (c) **Loitering or Prowling Prohibited.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement 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/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection 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 law enforcement 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 premises, public or private, 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 a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female 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. No arrest shall be made for a violation of this Subsection unless the sworn police officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:

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

(2) Known Prostitute or Panderer means a person who, within 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 municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

SEC. 11.26 LOUD AND UNNECESSARY NOISE PROHIBITED.

(a) **Statement of Purpose.** It is found and declared that:

(1) The making, creation or maintenance of such raucous or unusually loud noises which are prolonged and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City of Oak Creek; and

(2) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuit of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City of Oak Creek and its inhabitants.

(b) **Unreasonably Loud Noise Regulated.** It shall be unlawful for any person in the City to engage in unreasonably loud and raucous yelling, screaming, shouting, hooting, whistling or singing between the hours of 10:00 p.m. and 8:00 a.m. A noise shall be presumed to be unreasonably loud and raucous if it is plainly audible within a single-family or two-family residence, which is not the building, structure or property from which the sound originates, or from a distance of fifty (50) feet in the case of noise originating on public property or a public right-of-way, or from a distance of fifty (50) feet in the case of noise originating inside multifamily residential buildings of three (3) units or more. There shall be excepted from this provision any organized sporting events, fairs, carnivals or similar activities.

(c) **Types of Loud and Unnecessary Noise.** A noise shall be presumed to be unreasonably loud and raucous, if it is plainly audible within a single family or two-family residence, which is not the building, structure or property from which the sound originates, or from a distance of fifty (50) feet in the case of noise originating on public property or a public right-of-way, or from a distance of fifty (50) feet in the case of noise originating inside

multifamily residential buildings of three (3) units or more. There shall be excepted from this provision any organized sporting events, fairs, carnivals or similar activities. It shall be unlawful for any person to make any of the below-listed noises that are unreasonably loud and raucous:

- (1) The sounding of any horn or noise emitting device on any automobile, motorcycle, bus or other vehicle for more than fifteen (15) seconds or at continuous and frequent intervals.
- (2) The playing of any radio, phonograph, musical instrument or other device used for producing or reproducing sound with such volume as to be unreasonable between the hours of 10:00 p.m. and 8:00 a.m.
- (3) Allowing any animal, bird or fowl to bark, howl or make other noises for more than thirty (30) seconds or at continuous and frequent intervals.
- (4) The use of an automobile, motorcycle or other vehicle, machinery or equipment so out of repair, or in such manner as to create loud, grating, grinding, rattling or other noises, including unreasonable acceleration, deceleration or racing of motors whether in motion or at rest.
- (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, motorboat engine or other power device in constant operation, except through a muffler or other device, which will effectively prevent loud or explosive noises therefrom.
- (6) The creation of any unreasonably loud and raucous noise on any street adjacent to any school, institution of learning, church or court while the same are in session, which unreasonably interferes with the workings or sessions therefrom, or on any street adjacent to any hospital.
- (7) The erection, including excavation, demolition, alteration or repair of any building in any residential or business zoning district or section and the excavation of streets or highways in any residential district or section, other than between the hours of 7:00 a.m. and 8:00 p.m., except in cases of urgent necessity in the interest of public health and safety. If the City Engineer determines that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways, within the hours of 8:00 p.m. and 7:00 a.m., and if he/she shall further determine that no loss or inconve-

nience would result to any party in interest, he/she may grant permission for such work to be done within the hours of 8:00 p.m. and 7:00 a.m. on application being made at the time the permit for the work is awarded or during the progress of the work.

- (8) The creation of unreasonably loud and raucous noise in connection with the loading of any garbage or trash on a compactor truck or with the loading or unloading of any vehicle or the opening or destruction of bales, boxes, crates or other containers between the hours of 8:00 p.m. and 7:00 a.m.
 - (9) The operation on private property or on a public way in any residential or commercial district of any power equipment generating unreasonable noise that is used for home or building repair or grounds maintenance, between the hours of 10:00 p.m. and 7:00 a.m. Such power equipment shall include, but not be limited to, lawn mowers, garden tools, electric or chain saws or any power tools or other equipment used for home or building repair or grounds maintenance.
 - (10) The use of any musical instrument, loud speaker, sound amplifying equipment or other noisemaking device between the hours of 10:00 p.m. and 8:00 a.m.
- (d) **Exceptions.** There shall be excepted from the terms of this Section the following noises:
- (1) Any ambulance, any officer of the law while engaged in necessary public business or any vehicle in the City while engaged in necessary public business.
 - (2) Excavations or repairs or bridges, streets, highways, waterlines or sewer lines by or on behalf of the City, the county or the state, during the nighttime when the public welfare and convenience renders it impracticable to perform such work during the day.
 - (3) The reasonable use of amplifiers in the course of public address which are non-commercial in nature and when such use is outside the business district of the City.
 - (4) Any use of noise-emitting devices or the creation of any noise where permit has been obtained from the Chief of Police, but only to the extent as provided in the permit.
 - (5) Any organized sporting events or fairs, carnivals or like activities.
- (e) **Penalties.** Penalties for violations of this Section shall be as follows:
- (1) Any who shall violate any of the provisions of this Section shall be guilty of a violation and shall, upon conviction, be punished as provided in Section 1.07.

- (2) In any proceedings for the violation of this Section, the tenants, owners and/or occupants, after proper notice of the violations, shall be considered equally responsible for committing or allowing to commit a violation from the location or occupancy under their control.

SEC. 11.27 TRESPASS.

No person within the City of Oak Creek shall be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.

SEC. 11.28 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 within the City, 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/her person.

SEC. 11.29 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.

(a) Unauthorized Presence.

- (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him/her from attending any school located within the City 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 between 7:00 a.m. and 4:00 p.m. on official school days, 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 grounds for the purpose previously authorized by the school or their designee;
 - b. Any person transporting a student and who utilizes 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 Public School Property.

- (1) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
 - (2) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
 - (3) "Unauthorized presence" shall include any vehicle and its occupants that is found on school property which has not received permission to be there. If the occupants or owner of a vehicle on school property are not on school property for some legitimate business or activity or if the vehicle is parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a City 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 official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any public school building in the City of Oak Creek or upon any School District grounds or within adjacent posted school zones on any day 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.
- (e) Definitions.** As used in this Section, 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 City of Oak Creek.

SEC. 11.30 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/her duties.
- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any law enforcement officer 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 in the discharge of his/her duty, or to in any way interfere with or hinder or prevent him/her from discharging his/her duty as such officer or assistant, or to offer or endeavor to do so, or 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/her official capacity in carrying out his/her duties.

SEC. 11.31 POSSESSION OF CONTROLLED SUBSTANCES; MARIJUANA.

- (a) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance restricted by the Uniform Controlled Substance Act, Ch. 961, Wis. Stats., 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/her professional practice, or except as otherwise authorized by this Code of Ordinances.
- (b) **Possession of Marijuana.**
 - (1) No person shall possess marijuana, as defined in Section 961.01(14), Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his/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.

State Law Reference: Section 66.051(4), Wis. Stats.

SEC. 11.32 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.

SEC. 11.33 MISUSE OF EMERGENCY TELEPHONE NUMBERS.

- (a) **Prohibited Acts.** No person shall:
 - (1) Intentionally dial the emergency telephone number 9-1-1 or other emergency phone number(s) to report an emergency to the City of Oak Creek Police Department knowing that the facts of the situation which he/she is reporting do not exist.
 - (2) Intentionally dial the emergency phone number 9-1-1 for the purpose of communications not related to reporting an actual emergency.
- (b) **Responsibility of Parents.** No parent, guardian or other adult person having the care and custody of a person under the age of eighteen (18) years of age shall allow such minor or have insufficient control to allow such minor to violate provisions of Subsection (a).
- (c) **Emergency.** An "emergency" under this Section exists when a person reasonably believes that the immediate response by the Oak Creek Police and/or Fire Department personnel is essential due to the risk or actual occurrence of:
 - (1) Death or great bodily harm;
 - (2) Property damage;
 - (3) Other situations which mandate the immediate response of the Police or Fire Department.

SEC. 11.34 HOTEL REGISTRATION AND SECURITY.

(a) Registration Required.

- (1) Every owner, keeper or proprietor of any lodging house, rooming house, motel or hotel shall keep a register wherein all guests, roomers or lodgers shall inscribe their names and permanent address upon their procuring lodging, a room or accommodations. Said owner, keeper or proprietor shall require identification of such guest, roomer or lodger at the time of registration in a format including, but not limited to, a driver’s license, government-issued picture identification card, credit card or such other form as will reasonably assure that the registrant is, in fact, the person under whose name such lodging, room or accommodations is, in fact, being procured. The registration shall be made available for review and inspection by the Oak Creek Police Department.
- (2) Before furnishing any lodging for hire to any person in any lodging house, or before furnishing any accommodations to any guest of any motel or hotel, the proprietor, manager or owner thereof shall require the person to whom such lodgings are furnished, or room is rented or accommodations furnished, to inscribe his or her name and permanent address in such register, opposite said name the time that said name was so inscribed and the room occupied by such lodger, roomer or guest. The registration shall be made available for review and inspection by the Oak Creek Police Department.

(b) Enforcement. In addition to any forfeiture under this Section, the City may institute an action or proceeding to enjoin a violation of this Chapter, and such violation shall constitute the basis for revocation of any and all licenses and permits where in the City is the issuing authority.

SEC. 11.35 SALE OF MOTOR VEHICLE FROM PRIVATE RESIDENCE

An owner or occupant of a one family or two family shall not allow more than one motor vehicle to be displayed for sale at any one time and shall not allow more than three motor vehicles to be displayed for sale within a calendar year on the parcel owned or occupied by said person.

SECTION 11.36 RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

(a) Definitions. In this section and unless the context otherwise requires:

(1) A “sexually violent offense” shall have the meaning as set forth in Wis. Stat. §980.01(6), as amended from time to time.

(2) A “crime against children” shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

- §940.225(1) First Degree Sexual Assault; §940.225(2) Second Degree Sexual Assault; §940.225(3) Third Degree Sexual Assault; §940.22(2) Sexual Exploitation by Therapist; §940.30 False Imprisonment where victim was minor and not the offender’s child; §940.31 Kidnapping where victim was minor and not the offender’s child; §944.01 Rape (prior statute); §944.06 Incest; §944.10 Sexual Intercourse with a Child (prior statute); §944.11 Indecent Behavior with a Child (prior statute); §944.12 Enticing Child for Immoral Purposes (prior statute); §948.02(1) First Degree Sexual Assault of a Child; §948.02(2) Second Degree Sexual Assault of a Child; §948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child; §948.05 Sexual Exploitation of a Child; §948.055 Causing a Child to View or Listen to Sexual Activity; §948.06 Incest with a Child; §948.07 Child Enticement; §948.075 Use of a Computer to Facilitate a Child Sex Crime; §948.08 Soliciting a Child for Prostitution; §948.095 Sexual Assault of a Student by School Instructional Staff; §948.11(2)(a) or (am) Exposing Child to Harmful Material, felony sections; §948.12 Possession of Child Pornography; §948.13 Con-

- victed Child Sex Offender Working with Children; §948.30 Abduction of Another's Child; §971.17 Not Guilty by Reason of Mental Disease, of an included offense; and §975.06 Sex Crimes Law Commitment.
- (3) "Person" means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children.
- (4) "Residence" ("reside") means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.
- (b) Residency restrictions. A person shall not reside within two thousand feet of the real property comprising any of the following:
- (1) Any facility for children (which means a public or private school, a group home, as defined in §48.02 (7), Wis. Stats., a residential care center for children and youth, as defined in §48.02 (15d), Wis. Stats., a shelter care facility, as defined in §48.02 (17), Wis. Stats., a day care center licensed under §48.65, Wis. Stats., a day care program established under §120.13 (14), Wis. Stats., a day care provider certified under §48.651, Wis. Stats., or a youth center, as defined in §961.01 (22), Wis. Stats.); and/or
- (2) Any facility used for:
- (i) a public park, parkland, park facility;
 - (ii) a public swimming pool;
 - (iii) a public library;
 - (iv) a recreational trail;
 - (v) a public playground;
 - (vi) a school for children;
 - (vii) athletic fields used by children;
 - (viii) a movie theatre;
 - (ix) a daycare center;
 - (x) any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
- (xi) a public or private golf course or range; and
- (xii) aquatic facilities open to the public;
- (3) The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the Office of the City Clerk for public inspection.
- (c) Residency restriction exceptions. A person residing within two thousand feet of the real property comprising any of the uses enumerated in Sec. 11.36(b), above, does not commit a violation of this Section if any of the following apply:
- (1) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
 - (2) The person has established a residence prior to the effective date of this Section on April 6, 2009, which is within two thousand feet of any of the uses enumerated in Sec. 11.36(b), above, or such enumerated use described in 11.36(b)(1) or (b)(2) is newly established after such effective date and it is located within two thousand feet of a residence of a person which was established prior to the effective date of this Chapter.
 - (3) The person is a minor or ward under guardianship.
- (d) Original domicile restriction. In addition to and notwithstanding the foregoing, but subject to Sec. 11.36(c), above, no person and no individual who has been convicted of a sexually violent offense and/or a crime against children, shall be permitted to reside in the City of Oak Creek, unless such person was domiciled in the City of Oak Creek at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.
- (e) Child safety zones. No person shall enter or be present upon any real property upon which

there exists any facility used for or which supports a use of:

- (1) a public park, parkland, park facility;
- (2) a public swimming pool;
- (3) a public library;
- (4) a recreational trail;
- (5) a public playground;
- (6) a school for children;
- (7) athletic fields used by children;
- (8) a movie theatre;
- (9) a daycare center;
- (10) any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
- (11) a public or private golf course or range; and
- (12) aquatic facilities open to the public;
- (13) any facility for children (which means a public or private school, a group home, as defined in §48.02 (7), Stats., a residential care center for children and youth, as defined in §48.02 (15d), Stats., a shelter care facility, as defined in §48.02 (17), Stats., a day care center licensed under §48.65, Stats., a day care program established under §120.13 (14), Stats., a day care provider certified under §48.651, Stats., or a youth center, as defined in §961.01 (22), Stats.).

A map depicting the locations of the real property supporting the above enumerated uses, as amended from time to time, is on file in the Office of the City Clerk for public inspection.

- (f) Child safety zone exceptions. A person does not commit a violation of Sec. 11.36(e), above, and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

- (1) The property supporting an enumerated use under Sec. 11.36(e) also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
 - (i) Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and

- (ii) Written advance notice is made from the person to an individual in charge of the church and written approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
- (iii) The person shall not participate in any religious education programs which include individuals under the age of 18.

- (2) The property supporting an enumerated use under Sec. 11.36(e) also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:

- (i) Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
- (ii) Written advance notice is made from the person to an individual in charge of the use upon the property and written approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.

- (3) The property supporting an enumerated use under Sec. 11.36(e) also supports a polling location in a local, state or federal election, subject to the following conditions:

- (i) The person is eligible to vote;
- (ii) The designated polling place for the person is an enumerated use; and
- (iii) The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the

property immediately after voting.

- (4) The property supporting an enumerated use under Sec. 11.36(e) also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.
- (g) Violations. If a person violates Sec. 11.36(b), above, by establishing a residence or occupying residential premises within two thousand feet of those premises as described therein, without any exception(s) as also set forth above, the City Attorney, upon referral from the Chief of Police and the written determination by the Chief of Police that upon all of the facts and circumstances and the Purpose of this Chapter, such residence occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the City in the Circuit Court for Milwaukee County to permanently enjoin such residency as a public nuisance. If a person violates Sec. 11.36(e), above, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under Sec. 1.07 of the Municipal Code. Each day a violation continues shall constitute a separate offense. In addition, the City may undertake all other legal and equitable remedies to prevent or remove a violation of this Section.

Ordinance # 2552 A 4/6/09 Sec. 11.36

OFFENSES AGAINST PROPERTY

SEC. 11.40 CRIMINAL DAMAGE OR THEFT OF PROPERTY PROHIBITED.

No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the City of Oak Creek, Oak Creek-Franklin Joint School District within the City, 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 pole without the consent of the proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.

SEC. 11.41 LITTERING PROHIBITED.

(a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the City of Oak Creek, or upon property within the City owned by the Oak Creek-Franklin Joint School District or any private person, or upon the surface of any body of water within the City.

(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 street, alley or other public way.

(2) **Litter to be cleaned up.** Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way 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 Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City crews 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 promptly paid, steps shall be tak-

en, with the advice of the City Attorney's office, to collect the same. 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, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Common Council or Street Superintendent pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(d) **Handbills.**

(1) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising material to any premises in the City 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, provided that this shall not prohibit the sale of newspapers in vending machines.

SEC. 11.42 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/her control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his/her agent and is securely locked or fastened.

SEC. 11.43 THEFT OF LIBRARY MATERIAL.

(a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:

- (1) **Archives.** A place in which public or institutional records are systematically preserved.
 - (2) **Library.** Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the City of Oak Creek 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, 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) **Detention Based on Probable Cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this Section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of

a law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

- (e) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture, tape or other article or property belonging to or in charge of the library. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1.07.
- (f) **Return Demanded.** No person shall fail, on demand, to return any book periodical, pamphlet, picture or other articles or property belonging to or in charge of the Oak Creek Public Library according to the rules or regulations duly made and adopted by the Library Board and no person shall remove from the library any book, periodical, pamphlet, picture or other articles or property 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 Section 1.07.

State Law Reference: Section 943.61, Wis. Stats.

SEC. 11.44 CEMETERY REGULATIONS.

- (a) **Purpose and Definition.** In order to protect cemetery areas within the City 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 City of Oak Creek.
- (b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.
- (c) **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 structures; nor shall any person without proper authority remove, damage or destroy 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 except as provided by this Code of Ordinances; 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.
 - (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 specifically designated as parking areas or areas where the 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) **Pets.** Pets, including animals of any species, and horses are prohibited in any cemetery.
 - (8) **Sound Devices.** No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
 - (9) **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.
 - (10) **Loitering Prohibited.** No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.
 - (11) **Alcoholic Beverages Prohibited.** No person shall consume or have in his/her possession any open container containing an alcohol beverage upon any cemetery property within the City unless the property is specifically named as being part of a licensed premises.
 - (12) **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.
 - (13) **Presence After Hours Prohibited.** No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

SEC. 11.45 DAMAGE TO PUBLIC PROPERTY.

- (a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the City of Oak Creek.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or win-

dows of any building owned or occupied by the City.

- (c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of City authorities, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

SEC. 11.46 ISSUANCE OF WORTHLESS CHECKS.

- (a) Whoever issues any check or other order for the payment of money less than Five Hundred Dollars (\$500.00) which, at the time of issuance, he/she intends shall not be paid is guilty of a violation of this Section.
- (b) Any of the following is prima facie evidence that the person at the time he/she issued the check or other order for payment of money intended it should not be paid:
 - (1) Proof that, at the time of issuance, the person did not have an account with the drawee; or
 - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
 - (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- (c) This Section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.

SEC. 11.47 REGULATION OF SMOKING.

- (a) **State Statute Adopted.** The provisions of Chapter 101.123, Wisconsin Statutes, "Smoking Prohibited," are hereby adopted by reference and made a part of this Section as though fully set forth herein.
- (b) **Definition.** Instead of the statutory definition for "Enclosed place" as provided in Section 101.123(ak) of the Wisconsin Statutes, "Enclosed place" shall mean all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary

or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.

- (c) **Designated Outside Area.** The person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to the ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke.
- (d) **General Penalty.** Any person who shall violate any provision of this Section shall be subject to a penalty as provided in Section 1.07.

Ordinance #2160 A 02/05/2002 Section 11.47(d)(2)
Ordinance #2591 A 06/15/2010 Section 11.47

SEC. 11.48 VANDALISM – GRAFFITI RELATED.

No person may write, paint, or draw any inscription, figure, or marker of any type on any public or private building or other real or personal property owned, operated or maintained by a government entity or any agency or by any person, firm or corporation unless the express permission of the owner or operator of the property has been obtained.

Cross-Reference: Section 11.85, Sale of Spray Paint and Wide Tip Markers to Juveniles.

OFFENSES INVOLVING ALCOHOLIC BEVERAGES

SEC. 11.60 PROHIBITING JUVENILE BEER AND ALCOHOL PARTIES.

- (a) No underage person as defined by Sec. 125.02, Wis. Stats., shall remain or loiter in any private place where any fermented malt beverage or other alcoholic beverage is sold, dispensed, given away or made available to underage persons, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (b) The penalty for violation of Subsection (a) above shall be not more than the maximum penalty for a municipal ordinance violation which may be imposed upon a juvenile pursuant to Wisconsin Statutes.

SEC. 11.61 USE OF ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY.

- (a) No person shall bring upon, or use, consume, sell or convey any alcoholic beverage upon any public property except in such places as approved by the Common Council.
- (b) No person shall use or consume any alcoholic beverages upon the public streets, alleys, sidewalks, street crossings, bridges, public playgrounds, public parking lots or other places of public assembly or public use in the City.

Ordinance #2161 A 2/18/02 Sec. 11.60, Sec. 11.61

OFFENSES BY JUVENILES

SEC. 11.80 CURFEW.

(a) **Curfew Established.** It shall be unlawful for any person under seventeen (17) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the City of Oak Creek between the hours of 11:00 p.m. and 5:00 a.m. the next day, unless accompanied by his/her parent or guardian, or person having lawful custody and control of his/her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore:

(b) **Exceptions.**

- (1) This Section shall not apply to a child:
 - a. Who is performing an errand as directed by his/her parent, guardian or person having lawful custody.
 - b. Who is on his/her own premises or in the areas immediately adjacent thereto.
 - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - d. Who is returning home from a supervised school, church or civic function, but not later than thirty (30) minutes after the ending of such function.
- (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under seventeen (17) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any

person under seventeen (17) years of age to violate this Section.

(d) **Taking a Child Into Custody.**

(1) Every law enforcement officer while on duty is hereby authorized to take into custody any child violating the provisions of Subsection (a) above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home authorized under Sec. 48.277 of the Wisconsin Statutes. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.

(2) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under Sec. 48.20(4), Wis. Stats. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the officer shall take such action as is required under Sec. 48.20(5), Wis. Stats. If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself/herself or on another and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the officer shall take such action as is required under Sec. 48.20(6), Wis. Stats.

(e) **Penalty.** Any parent, guardian, or person having legal custody of a child described in Subsection (a) above shall be subject to a penalty as provided in Section 1.07 of this Code of Ordinances. Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the costs of prosecution.

SEC. 11.81 CITY JURISDICTION OVER PERSONS 12 THROUGH 17 YEARS OF AGE.

- (a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **Provisions of Ordinance Applicable to Persons 12 through 17 Years of Age.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 12 through 17 years of age may be brought on behalf of the City of Oak Creek and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (d) **Additional Prohibited Acts.** In addition to any other provision of the City of Oak Creek Code of Ordinances, no person age 12 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **Penalty for Violations of Subsection (d).** Any person 12 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1.07 of these Ordinances exclusive of the provisions therein relative to commitment in the Milwaukee County House of Corrections.

SEC. 11.82 POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA BY A MINOR PROHIBITED.

- (a) **Definition.** In this Section, “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance, as defined in Ch. 961, Wis. Stats., in violation of this Section. It includes but is not limited to:
 - (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, pro-

ducing, processing, or preparing controlled substances.

- (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
- (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
- (9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
 - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - b. Water pipes;
 - c. Carburetion tubes and devices;
 - d. Smoking and carburetion masks;
 - e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
 - f. Miniature cocaine spoons and cocaine vials;
 - g. Chamber pipes;

- h. Carburetor pipes;
 - i. Electric pipes;
 - j. Air-driven pipes;
 - k. Chillums;
 - l. Bongs;
 - m. Ice pipes or chillers.
- (b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation, of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
 - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
 - (3) The proximity of the object in time and space to a direct violation of this Section.
 - (4) The proximity of the object to controlled substances.
 - (5) The existence of any residue of controlled substance on the object.
 - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
 - (7) Oral or written instructions provided with the object concerning its use.
 - (8) Descriptive materials accompanying the object which explain or depict its use.
 - (9) National and local advertising concerning its use.
 - (10) The manner in which the object is displayed for sale.
 - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
 - (12) The existence and scope of legitimate uses for the object in the community.
 - (13) Expert testimony concerning its use.
- (c) **Prohibited Uses.**
- (1) **Possession of Drug Paraphernalia.** No person may use, or possess with the sole intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise in-

troduce into the human body a controlled substance in violation of this Subsection.

- (2) **Manufacture or Delivery of Drug Paraphernalia.** No person who is under eighteen (18) years of age may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
- (3) **Delivery of Drug Paraphernalia By a Minor to Minor.** Any person who is under eighteen (18) years of age, who violates Subsection (3) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
- (4) **Exemption.** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall, upon conviction, be subject to disposition under Section 48.344, Wis. Stats.

SEC. 11.83 TRUANCY.

- (a) **Contributing to Truancy.**
 - (1) Except as provided in Subsection (a)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (a)(4), of a child shall be subject to a forfeiture pursuant to Section 1.07.
 - (2) Subsection (1) above does not apply to a person who has under his/her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.
 - (3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.
 - (4) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the le-

gal 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 Sec. 118.15, Wis. Stats.

(b) **Parent or Guardian Liability for Truancy.**

- (1) Unless the child is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a child who is between the ages of six (6) and eighteen (18) years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age.
- (2) a. A person found to have violated Subsection (b)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1.07.
b. Subsection (b)(2)a above does not apply to a person who has under his/her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats., nor does it apply if the person proves that he/she is unable to comply with Subsection (b)(1) because of the disobedience of the child.

(c) **School Truancy and Attendance.**

- (1) Authority. Sec. 118.163(2), Wis. Stats., authorizes the City of Oak Creek to adopt a municipal truancy ordinance based on Juvenile Code Sections 938.02(9m), 938.13(6), 938.17(2)(a), 938.17(2)(d), 938.17(2)(g) and 938.342, Wis. Stats.
- (2) Definitions. For purposes of this Subsection (c):
 - a. "Truant." Means 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.
 - b. "Habitual Truant." Means a pupil who is absent from school without an acceptable excuse for either of the following:
 1. Part or all of five (5) or more days out of ten (10) consecutive days in which school is held during a school semester.
 2. Part or all of ten (10) or more days in which school is held during a school semester.

- c. "Acceptable Excuse." Has the same meaning as defined in Secs. 118.15 and 118.16(4), Wis. Stats.
- d. "School Attendance Officer." Means an employee designated by the school board to deal with matters relating to school attendance and truancy.

(3) Truancy Prohibited.

- a. The City of Oak Creek hereby prohibits any student within its jurisdiction from being truant. The City of Oak Creek Police Department is authorized to issue a citation to any such student found within its jurisdiction who is determined to be truant.

(4) Habitual Truancy Prohibited.

- a. The City of Oak Creek hereby prohibits any student within its jurisdiction from being a habitual truant. The City of Oak Creek Police Department is authorized to issue a citation to any such student found within its jurisdiction who is determined to be habitually truant.
- b. Prior to the issuance of any citation, the Police Department shall determine whether the school officials have done the following in accordance with Sec. 118.16(5), Wis. Stats.:
 1. Met with the child's parents or guardian to discuss the child's truancy or have attempted to meet with the child's parent or guardian and received no response or were refused;
 2. Provided an opportunity for education counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications;
 3. Evaluated the child to determine whether learning problems are the cause of the truancy and, if so, taken steps to overcome the learning problems;
 4. Conducted an evaluation to determine whether social problems are the cause of the child's truancy, and, if so, taken appropriate action or made appropriate referrals.
- c. Any citation issued shall be returnable in the Municipal Court of the City of Oak Creek. The citation shall state on its face that there is a "mandatory court appearance".

(5) Dispositions.

- a. Upon finding the child truant, the Municipal Court of the City of Oak Creek shall

impose one or both of the following dispositions in accordance with Sec. 118.163(1m), Wis. Stats.:

1. An order for the person to attend school.
 2. A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus cost for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to Sec. 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violation committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
- b. Upon finding the child habitually truant, the Municipal Court of the City of Oak Creek shall impose one or more of the following dispositions in accordance with Sec. 938.342(1g), Wis. Stats.:
1. Suspend the child's operating privileges as defined in Sec. 340.01(40), Wis. Stats., for not less than thirty (30) days nor more than one year. The court shall immediately take possession of the suspended license and forward it to the State of Wisconsin, Department of Transportation, together with a notice stating the reason for and duration of the suspension.
 2. Order the child to participate in counseling, community service or a supervised work program under Sec. 938.34(5g), Wis. Stats.
 3. Order the child to remain at home except during hours in which the child 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 child to leave the home if accompanied by a parent or a guardian.
 4. Order the child to attend an education program under Sec. 938.34(7d), Wis. Stats.
 5. Order the department of workforce development to revoke, under Sec. 103.72, Wis. Stats., a permit under Sec. 103.70, Wis. Stats., authorizing the employment of the child.

Ordinance #2083, 09/05/00

(d) **Compulsory School Attendance.**

- (1) Required School Attendance. Any person having under his/her control a child who is between the ages of six (6) and eighteen (18) years, which child attends school in the City of Oak Creek, shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age, unless otherwise provided by Sec. 118.15, Wis. Stats.

(2) Exceptions.

- a. A person will not be found in violation of Subsection (d)(1) above if that person proves that he/she is unable to comply with this Subsection because of the disobedience of the child. The action shall be dismissed and the child will be referred to the court assigned to exercise jurisdiction under Ch. 48, Wis. Stats.
- b. Subsection (d)(1) does not apply to a person who has a child under his/her control if the child has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.

- (e) **Penalty.** Before a person may be found guilty of violating Subsection (d)(1), the school attendance officer must present evidence to the court of compliance with Sec. 118.16(5), Wis. Stats. If that evidence is presented to the court, and if the court finds a person guilty of violating Subsection (d)(1), a forfeiture of not more than Five Hundred Dollars (\$500.00) shall be imposed against that person.

SEC. 11.84 UNLAWFUL SHELTERING OF MINORS.

- (a) No person shall intentionally shelter or conceal a minor child who:
 - (1) Is a "runaway child", meaning a child who has run away from his/her parent, guardian or legal or physical custodian; or
 - (2) Is a child who may be taken into custody pursuant to Section 48.19, Wis. Stats.
- (b) Subsection (a) applies when the following conditions are present:
 - (1) The person knows or should have known that the child is a child described in either Subsection (a)(1) or (a)(2); and
 - (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection (a)(1) or (a)(2).
- (c) Subsection (a) does not apply to any of the following:

- (1) A person operating a runaway home in compliance with Section 48.227, Wis. Stats.; or
- (2) A person who shelters or conceals a child at the request or with the consent of the child's parent, guardian or legal or physical custodian except if the sheltering or concealment violates Section 946.71 or 946.715, Wis. Stats.; or
- (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Chapter 48, Wis. Stats., that he/she is sheltering or concealing such child and provides the person or agency notified with all information requested.

“Graffiti is against the law. The defacing of public or private property is punishable by a fine of up to \$5,000 or imprisonment for up to 90 days.”

- (2) Sales Prohibition Signage. Place a sign in the direct view of persons responsible for accepting customer payment for spray paint or wide-tipped markers stating:

“Selling spray paint or wide-tipped markers to persons under 18 years of age is against the law. Violators can be fined up to \$5,000 or imprisoned up to 90 days.”

SEC. 11.85 SALE OF SPRAY PAINT AND WIDE TIP MARKERS TO MINORS.

(a) **Definitions.** In this Section:

- (1) Graffiti. Any inscription, word, figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, dye or other similar substances on buildings, fences, structures and similar places without the express permission of the owner or operator of the property.
- (2) Spray Paint. Any container, regardless of the material from which it is made or adapted for the purpose of spraying paint.
- (3) Wide-Tipped Markers. Any indelible marker or similar implement with a tip which, at its broadest, is one-fourth (1/4) inch or greater.

(b) **Prohibited Conduct.**

- (1) Sale of Spray Paint and Wide-Tipped Markers to Minors. No person, firm, or corporation, except a parent or legal guardian, employer, teacher or other person authorized to supervise minors, may sell or give away or in any way furnish spray paint or wide-tipped markers to any person under the age of eighteen (18).
- (2) Possession of Spray Paint and Wide-Tipped Markers. No person under the age of eighteen (18) may possess spray paint or wide-tipped markers in a public or private place, without the express permission of the owner or operator of the property.

(c) **Display of Spray Paint and Wide-Tipped Markers.** Every person who owns, conducts, operates or manages a retail commercial establishment selling spray paint or wide-tipped markers shall:

- (1) Anti-Graffiti Signage. Place a sign in clear public view at or near the display of such products stating:

- (3) Sales Displays. Display such paint or markers in such a manner as to make them inaccessible to a customer present in the area allocated for customer use without assistance from an employee of that establishment.

- (4) Displays Under Observation. Display such items, if the person chooses not to comply with the display requirements set forth in Subsection (c)(3), such that mirrors, cameras or personnel can readily observe customers during all times such establishments is open to the public.

(d) **Penalties.**

- (1) Except as provided below, any person convicted of violating any provision of this Section shall forfeit not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) per violation, or upon default of payment be imprisoned for not more than ninety (90) days.
- (2) Any person convicted of violating Subsection (b)(2) shall forfeit Two Hundred Dollars (\$200.00) per violation.

Cross-Reference: Section 11.48, Vandalism - Graffiti Related.

SEC. 11.86 PARENTAL RESPONSIBILITY FOR JUVENILE MISCONDUCT

- (a) **Purpose.** The purpose of this section is to reduce the incidence of misconduct by juveniles by requiring proper supervision on the part of the custodial parents.

- (b) **Definitions.** Whenever the following words or terms are used in this section, they shall be construed to have the following meanings:

- (1) Juvenile. A person age 12 years old to 17 years old.

- (2) Custodial Parent. A parent or legal guardian of a juvenile who has legal custody of said juvenile.
 - (3) Custody. Legal or physical custody under court order Section 767.23 or 767.24 of Wisconsin Statutes or actual physical custody of a juvenile. Custody does not include legal custody as defined under Section 48.02(12) of the Wisconsin Statutes by an agency or person other than a juvenile's birth or adoptive parent.
 - (4) Parent Responsibility. A custodial parent of an unemancipated juvenile residing with such custodial parent shall be presumed by virtue of his/her uniquely intimate and ongoing relationship to the juvenile, to have the greatest obligation and the greatest opportunity to deter delinquent behaviors.
- (c) **Prohibited Conduct.** Every custodial parent has a duty to properly supervise his or her juvenile. Any custodial parent whose juvenile is convicted of a Municipal Code violation twice within a six-month period or three or more times within a twelve-month period is guilty of failing to properly supervise said juvenile. The six- and twelve-month periods shall be measured from the date of the first conviction. An adjudication in the court that the juvenile has violated an ordinance, based upon proof that the juvenile committed the act, subject to its admissibility under Section 904.10 of Wisconsin Statutes, shall bar a juvenile's custodial parent from denying that the juvenile committed the act.
- (d) **Defenses.** The following shall be defenses to a violation of subsection (c):
- (1) Where the parent has made all reasonable and available efforts under the circumstances to prevent the juvenile misconduct;
 - (2) Where the parent can provide specific evidence of enrollment or ongoing participation in parenting classes, family therapy, group counseling or AODA counseling. (This is not to exclude other such activities associated with making a reasonable effort at enhancing one's parenting effectiveness.);
 - (3) Where the parent was not legally responsible for the supervision of the juvenile at the time the misconduct occurred; or
 - (4) Where the parent has a physical or mental disability or incompetence rendering them incapable of supervising

ing the juvenile at the time the misconduct occurred;

(5) Where the parent reported the act to the appropriate authorities;

(6) It is not a defense where the parent assigns his or her parental responsibility to another, except pursuant to legal proceedings, which result in a court order effectuating the same.

(e) **Penalty.** The offense described under subsection (c) shall be subject to a penalty of not less than \$250 nor more than \$1,000.

Ordinance #2019 A 8/2/99

SEC. 11.87 ENFORCEMENT AND PENALTIES.

- (a) **Citation Process.** For violations of Sections 11.81 through 11.85, juveniles may be cited by the citation process on a form approved by the City Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian or given directly to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11.81 through 11.85 by a person under the age of eighteen (18) shall be punishable according to Sections 48.17(2), 48.343, 48.344 and 48.345 of the Wisconsin Statutes. Nothing in this Section shall prevent the juvenile officer, in his/her discretion, from referring cases directly to the District Attorney's office.

PUBLIC NUISANCES

SEC. 11.100 PUBLIC NUISANCES PROHIBITED.

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

SEC. 11.101 PUBLIC NUISANCE DEFINED.

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

- (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.

SEC. 11.103 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency with definition of Section 11.101:

- (a) An act of harassment as defined in Wis. Stats. Section 947.013.
- (b) Disorderly conduct as defined in Wis. Stats. Section 947.01.
- (c) Battery, substantial battery or aggravated battery as defined in Wis. Stats. Section 940.19.
- (d) Indecent exposure as defined in Wis. Stats. Section 944.20(1)(b).
- (e) Keeping a place of prostitution as defined in Wis. Stats. Section 944.34 or leasing a building for the purposes of prostitution.
- (f) Littering of premises as defined in Section 11.41.
- (g) Theft as defined in Wis. Stats. Section 943.20.
- (h) Arson as defined in Wis. Stats. Section 943.02.
- (i) Possession, manufacture or delivery of a controlled substance or related offenses as defined in Chapter 961, Wis. Stats.
- (j) Gambling as defined in Wis. Stats. Section 945.02.
- (k) Keeping a prohibited dangerous animal as defined in Section 7.48.
- (l) Trespass to land as defined in Wis. Stats. Section 943.13, or criminal trespass to dwelling as defined in Wis. Stats. Section 943.14.

- (m) Any act of aiding and abetting any of the activities, behaviors or conduct enumerated in subs. (a) to (l).
- (n) Any conspiracy to commit, as defined in Wis. Stats. Section 939.31, or attempt to commit, as defined in Wis. Stats. Section 939.32, any of the activities, behaviors or conduct enumerated in subs. (a) to (l).
- (o) Discharge of a firearm as regulated in Section 11.20.
- (p) The production or creation of excessive noise as defined in Section 11.26.
- (q) Loitering as defined in Section 11.25.
- (r) Public drinking as defined in Section 11.61.
- (s) The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in Wis. Stats. Section 125.04(1).
- (t) Selling or giving away tobacco products to persons under the age of 18 as defined in Wis. Stats. Section 134.66.
- (u) Misuse of emergency telephone numbers as defined in Section 11.33.
- (v) Illegal sale, discharge and use of fireworks as defined in Section 11.23.
- (w) Loitering-illegal drug activity as defined in Section 11.25.
- (x) State fire code violations and local fire code violations as defined in Chapter 15.
- (y) Housing code violations as defined in Chapter 16.
- (z) Health code violations as defined in Chapter 8.
- (aa) Keeping junked motor vehicles as defined in Section 10.65.
- (bb) Any place or premises within the City where City ordinances or State laws relating to public health, safety, peace, morals or welfare are openly and repeatedly violated.

Ordinance 2374, A 11/1/05, Sec. 11.103

SEC. 11.104 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11.101:

- (a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the City relating to materials and manner of construction of buildings and structures within the City.

- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.
- (f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City.
- (h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the Ordinances of the City or which, although made in accordance with such Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.
- (k) **Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited.** No person shall have or permit on any premises owned or occupied by him/her any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.
- (l) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) **Flammable Liquids.** Repeated or continuous violations of the Ordinances of the City or laws of the State relating to the storage of flammable liquids.
- (o) **Unremoved Snow.** All snow and ice located on sidewalks not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

SEC. 11.105 ABATEMENT OF PUBLIC NUISANCES.

The City shall have the option to abate public nuisances as follows:

- (a) **Summary Abatement.**
 - (1) **Notice to Owner.** If the inspecting officer determines that a public nuisance exists within the City and that there may be immediate harm to the public health, safety, peace, morals or decency, notice may be served by the inspecting officer or an authorized deputy on the person causing, maintaining or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted. Such notice shall direct the person causing, maintaining or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not greater than seven (7) days and shall state that unless such nuisance is so abated, the City will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, maintaining or permitting the nuisance, as the case may be.
 - (2) **Abatement by City.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Mayor shall cause the abatement or removal of such public nuisance. The cost of abatement or removal of the public nuisance shall be levied against the property as a special charge.
- (b) **Chronic Nuisances.**
 - (1) Whenever the chief of police determines three (3) or more of any of the nuisance activities set forth in Sec. 11.103 have occurred at a premises whether or not the owner or occupant of the premises has been cited or charged with the nuisance activities on separate days during a sixty (60) day period as calculated from the date of the last violation or that re-

peated nuisances of the types defined in Section 11.103(e)(i) and (j) have occurred at a premises, the chief may notify the premises owner in writing that the premises is in danger of becoming a chronic nuisance. This notice shall be deemed to be properly delivered if sent either by first class mail to the premises owner's last known address or if delivered in person to the premises owner. If the premises owner cannot be located, the notice shall be deemed to be properly delivered if a copy of it is left at the premises owner's usual place of abode in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing there and who shall be informed of the contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner as identified by the records of the City. This notice shall contain:

- a. The street address or legal description sufficient for identification of the premises.
 - b. A description of the nuisance activities that have occurred at the premises and a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises.
 - c. A statement that the premises owner shall within ten (10) days respond to the chief of police either with an appeal or a proposed written course of action to abate the nuisance activities.
- (2) Whenever the chief of police determines that an additional nuisance activity has occurred at a premises for which notice has been issued pursuant to sub. (1) and either this nuisance activity has occurred not less than 13 days after notice has been issued or a course of action submitted pursuant to sub.(1)(c) has not been completed, the chief of police shall notify the premises owner of the decision to refer the cost of enforcement to the City Clerk who shall bill the owner of the premises for the actual cost of enforcement for this and any subsequent nuisance activities. The City Clerk shall notify the premises owner that the cost of enforcement will be a special charge against the premises if the invoice for the cost of enforcement is not paid in full. Delivery of this notice shall be made as set forth in sub.(1). The notice shall contain:
- a. The street address or legal description sufficient for identification of the premises.

- b. A statement that if not paid cost of enforcement will become a special charge against the premises pursuant to Wis. Stats. Sec. 66.0627 with a concise description of the nuisance activities and the relevant sections of the code.
- c. A notice of the premises owner's right to appeal.
- d. Each subsequent incident of nuisance activity shall be deemed a separate violation.

- (c) **Cost Recovery.** Upon receipt of a notice from the chief of police pursuant to sub. (b)(2), the City Clerk shall charge any premises owner found to be in violation of this section the costs of enforcement, including administrative costs. All costs so charged are a lien upon the premises and may be assessed and collected as a special charge.
- (d) **Appeal.** Appeal of the determination of the chief of police pursuant to sub.(b)(2) or the action of the City Clerk imposing special charges against the premises, shall be submitted in writing to the small claims committee of the Common Council, within thirty (30) days from the date of the letter imposing charge pursuant to sub.(b)(1).
- (e) **Abatement by Court Action.** If the inspecting officer determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten immediate harm to the public health, safety, peace, morals or decency, the inspector may file a written report of such findings with the Mayor who, upon direction of the Council, may cause an action to abate such nuisance to be commenced in the name of the City in the Milwaukee County Circuit Court in accordance with the provisions of Chapter 823, Wis. Stats.
- (f) **Court Order.** Except where necessary under sub.(a), no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (g) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the State of Wisconsin.

Ordinance 2374, A 11/1/05, Sec. 11.105

SEC. 11.106 COST OF ABATEMENT.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting

or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

SEC. 11.107 ENFORCEMENT; PENALTY.

- (a) **Enforcement.** The Chief of Police, Fire Inspector, Director of Public Works, City Forester, Sanitarian, Health Officer, and Building Commissioner or his/her subordinate shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Section 11.105 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.
- (b) **General Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a penalty as provided in Section 1.07.

DISCRIMINATION IN HOUSING PROHIBITED.

SEC. 11.120 DISCRIMINATION IN HOUSING PROHIBITED.

(a) **Declaration of Policy and Intent.** It is hereby declared to be the policy of the City of Oak Creek and the intent of this Section pursuant to the United States and Wisconsin Constitutions and also its power to protect the public health, safety and general welfare, that all persons, regardless of sex, race, color, sexual orientation as defined in Sec. 111.32(13m), Wis. Stats., handicap, religion, marital status, ancestry or national origin, are entitled to fair and equal access to housing and to that end, the City hereby enacts the following Section which prohibits any person from discriminating against any other person by impairing access to any housing accommodations as defined in Sec. 111.32(13m), Wis. Stats., handicap, religion, marital status, ancestry or national origin. This Section shall be deemed an exercise of the police power of the City.

(b) **Definitions.** In this Section, unless the content requires otherwise:

- (1) **Housing.** Any improved property, including mobile homes as defined in Sec. 66.058, Wis. Stats., which is used or occupied or intended, arranged or designed to be used or occupied as a home or residence including, with exception, housing owned or operated by the federal government, provided in whole or in part with aid of loans, advances, grants or contributions made by the federal government; provided in whole or in part by insured loans by the federal government; and urban renewal development housing receiving federal assistance.
- (2) **Accommodation.** Any room, apartment, house, building, or structure, any part of which is used for human habitation on a temporary or permanent basis.
- (3) **Discriminate** and **Discrimination.** To segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, sexual orientation as defined in Sec. 111.32(13m), Wis. Stats., handicap, religion, marital status, ancestry or national origin and shall refer to any type of act or refusal to act prohibited by Subsection (c), but shall not include and shall exempt herefrom, acts not prohibited by Subsection (e). It is intended that the factors set forth herein shall

be the sole basis for prohibiting discrimination.

- (4) **Person.** Any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee, trustee in bankruptcy or other fiduciary, or the lessee, proprietor, manager, employee or other agent of any such person.
 - (5) **Single-Occupancy Room.** Any room which the owner or his tenant has leased or rented, or in any way offered to lease or rent, to a sole individual; provided, the owner or his tenant permanently occupies living quarters in the same dwelling unit.
 - (6) **Dwelling Unit.** That portion of a residential dwelling or building which is occupied by the members of the same immediate family.
 - (7) **Unimproved Residential Lot.** Any residential lot upon which no permanent building or structure containing living quarters has been constructed.
 - (8) **Handicap.** Any physical disability or developmental disability as defined under Sec. 51.01(5)(a), Wis. Stats.
- (c) **Prohibited Acts.** It shall be unlawful for any person to discriminate:
- (1) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.
 - (2) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.
 - (3) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
 - (4) By publishing, circulating, issuing or displaying or causing to be published, circulated, issued or displayed any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing which states or indicates any discrimination in connection with housing.
 - (5) For a person in the business of insuring against hazards by refusing to enter into or by exacting different terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling.
 - (6) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.
- (d) **Interference, Coercion or Intimidation.** No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this Section or

with any person who has aided or encouraged another person in the exercise or enjoyment of any right granted or protected by this Section.

(e) **Acts Not Prohibited.**

- (1) Nothing in this Section prohibits an owner or agent from requiring that any person who seeks to buy, rent or lease housing, supply information concerning family, marital, financial and business status, but not concerning race, color, physical condition, developmental disability, as defined in Sec. 51.05(5), Wis. Stats., sexual orientation or creed.
- (2) This Section shall not apply to an offer or advertisement to lease or rent or to the lease or rental of single-occupancy rooms in a dwelling unit; provided the number of persons other than the owner and his immediate family, or the owner's tenant and the tenant's immediate family, who dwell therein, does not exceed two (2).

(f) **Exceptions.**

- (1) Nothing in this Section shall prohibit discrimination on the basis of age, in relation to housing designed to meet the needs of elderly individuals.
- (2) Nothing in this Section shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing, if the terms or conditions are reasonably related to the individual applicant.
- (3) Nothing in this Section shall prohibit the development of housing designed specifically for persons with a handicap and discrimination on the basis of handicap in relation to such housing.
- (4) This Section shall not apply to the lease or rental of a dwelling unit in a building consisting of four (4) or less dwelling units all in one structure, in which at least one of such dwelling units is occupied by the owner of such building as his residence.
- (5) This Section shall not apply to an offer or advertisement to lease or rent, or to the lease or rental of single-occupancy rooms in a dwelling unit; provided, the number of persons other than the owner and his immediate family, or the owner's tenant and the tenant's immediate family, who dwell therein, does not exceed two (2).
- (6) The provisions of Subsections (f)(3), (4) and (5) shall not apply unless the sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or

salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman or person, but nothing herein shall prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title.

- (g) **Testing Prohibited.** No person not having any bona fide intention to avail himself of any rights under this Section shall solicit offers to buy or lease from property owners or lessees or their agents for the sole purpose of securing evidence of a discriminatory practice. Any person found to have violated this Section shall be subject to the penalties prescribed under Section 1.07.

- (h) **Enforcement.** This Section shall be administered and enforced by the City Attorney as in the case of other violations of City ordinances. The City Attorney, upon receipt of a complaint verified by a complainant, may issue a complaint if, in his judgment, an action of discrimination is sustainable in court, and his attempts at conciliation are not successful. No publicity shall be given a complaint in those cases where the City Attorney obtains compliance with the provisions of this Section through conference, conciliation or persuasion, or if the City Attorney, through investigation, finds that the complaint is without foundation.