

It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
September 3, 2013
6:30 PM
or immediately following Common Council
AGENDA**

- A. CALL TO ORDER
- B. ROLL CALL/EXCUSED ABSENCES
- C. MINUTES TO APPROVE
 - 1. [Administration Committee, 8/19/13](#)
- D. COMMUNICATIONS
 - 1. [CVMIC, 8/16/13; 2014 Premium Estimate Report](#)
- E. DISCUSSION/ACTION ITEMS
 - 1. [First Amendment to Ground Site Lease Agreement dated March 30, 2001 between City of Menasha and TeleCorp Realty, LLC \(New Cingular Wireless PCS, LLC predecessor in interest\)](#)
 - 2. [Third Amendment to the Lease Agreement dated March 17, 2008 between City of Menasha and Morton Martin 1 LLC and Dumke and Associates, LLC.](#)
 - 3. [O-4-13 An Ordinance Amending Section 11-1-1 of the Code of Ordinances \(Unlawful Use of Telephone and Computer\) \(Introduced by Mayor Merkes and Ald. Keehan\)](#)
- F. ADJOURNMENT

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha City Clerk at 967-3603 24-hours in advance of the meeting for the City to arrange special accommodations."

CITY OF MENASHA
ADMINISTRATION COMMITTEE
Third Floor Council Chambers
140 Main Street, Menasha
August 19, 2013
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Nichols at 6:45 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Nichols, Taylor, Sevenich, Keehan, Zelinski, Englebert, Benner

EXCUSED: Alderman Langdon

ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Styka, DPW Radtke, CDD Keil,
Dpty Treasurer Sassman, Clerk Galeazzi

C. MINUTES TO APPROVE

1. [Administration Committee, 8/5/13](#)

Moved by Ald. Englebert, seconded by Ald. Keehan to approve minutes.

Motion carried on voice vote.

D. DISCUSSION/ACTION ITEMS

1. [Appeal of Voiding Operator's License Application – Melissa Hagen](#)

Melissa Hagen was not present.

PC Styka explained the Police Department voided Ms. Hagen's Operator's License application as it was not accurately completed and they were not able to make a recommendation to the Council.

Moved by Ald. Keehan, seconded by Ald. Englebert to deny the appeal of the voiding of Operator's License Application of Melissa Hagen as the application was not accurately completed.

Motion carried on roll call 7-0.

E. ADJOURNMENT

Moved by Ald. Englebert, seconded by Ald. Keehan to adjourn at 6:55 p.m.

Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk

Cities & Villages Mutual Insurance Company

Workers Compensation and Employers Liability Insurance Policy
2014 Premium Estimate Report

Insured: City of Menasha
 Policy Number: CWC-16-019
 Policy Period: 1/1/14 to 1/1/15
 Information Page: Renewal Pricing
 Type of Adjustment: 2014 Premium Estimated completed by Mike DeMoss & Michelle Voskuil

State of Wisconsin

| Code No. | Classification | Premium Basis Estimated Total Annual Remuneration | Rates per \$100 of Remuneration | Estimated Annual Premium |
|---|--|--|--|--------------------------------|
| 7710 | Civil Defense workers and volunteer rescue squads - including members serving as auxiliary police at emergencies | 12,480 | 8.54 | 1,066 |
| 7720 | Police officers & drivers | 2,263,677 | 4.02 | 91,008 |
| 8810 | Clerical office employees NOC | 2,141,800 | 0.27 | 5,783 |
| 9019 | Bridge or Vehicular Tunnel Operations & Drivers | 45,966 | 1.90 | 873 |
| 9412 | Municipal operations - miscellaneous - City | 2,882,154 | 3.97 | 114,422 |
| Total classification premium for the state | | | | 213,151 |
| Total Payroll used for the 2014 Premium Estimate | | 7,346,277 | | |
| Percentage increase in payroll from the 2012 WC Audit | | 0.00% | | |
| Premium for Increased Limits Part Two | | | 100/500/100 | - |
| Total Premium Subject to Experience Modification | | | | 213,151 |
| Premium modified to reflect Experience Modification of: | | | 0.770 | 164,127 |
| Total Estimated Standard Premium | | | | 164,127 |
| Subject to Premium Discount | | | | \$ 164,127 |
| Less Premium Discount | | | | 14,026 |
| Estimated Annual Premium | | | | \$ 150,101 |
| Expense Constant | | | | 220 |
| Total 2014 Estimated Annual Premium | | | | \$ 150,321 |

Experience Modification used is effective 1/1/14
 Rates used are effective 10/1/13
 2012 Audited payroll were used to project your 2014 Premium

**2014 Premium Projections as of 8/16/13.
Menasha**

| | 2012 | 2013 | 2014-Low Range | 2014-High Range | |
|--|-------------|-------------|----------------|-----------------|--|
| CVMC Liability Premium | \$ 50,002 | \$ 50,752 | \$ 52,020 | \$ 52,020 | Current SIR \$ 25,000 |
| CVMC Liability Dividend | \$ (29,437) | \$ (29,515) | \$ (34,982) | \$ (34,982) | As of 12/31/12 your ownership percentage has been updated. On May 15, 2013 the Board of Directors has declared the 2014 Dividend, Dividends amounts has been announced at the Summer Meeting. |
| CVMC WC Projection | \$ 162,070 | \$ 165,007 | \$ 150,321 | \$ 150,321 | Low Range - Based on rates from 10/1/13 & no increase in payroll. High Range - Based on rates from 10/1/13 & no increase in payroll. Rates for 2013 have been declared by the WCRB. Based on 2014 Normal Experience Modification. |
| Excess Workers Compensation Premium | \$ - | \$ - | \$ - | \$ - | Low Range - Based on 5% increase in rates. High Range - Based on 25% increase in rates. Based on audited payrolls from 2012 with no increased. |
| Excess Liability Premium | \$ 1,835 | \$ 1,835 | \$ 1,835 | \$ 1,927 | Low Range - Based on no increase in rates. High Range - Based on 5% increase in rates. Based on audited payrolls from 2012 with no increased. |
| Employment Practices Liability | \$ 4,537 | \$ 5,298 | \$ 5,563 | \$ 6,093 | Low Range - Based on a 5% increase in rates. High Range - Based on 15% increase in rates. Based on no change in employment count. |
| Auto Physical Damage Coverage | \$ 13,909 | \$ 17,220 | \$ 15,808 | \$ 17,388 | Low Range - Based on a 5% increase in rates and 5% inflation in fleet values. High Range - Based on 10% increase in rates and 5% inflation in fleet values. Based on actual fleet value on file as of 7/22/13. Based on a deductible of: \$ 1,000 |
| CVMC APD Dividend | \$ (4,667) | \$ (4,876) | \$ (5,281) | \$ (5,281) | On May 15, 2013 the Board of Directors has declared the 2014 Dividend, Dividends amounts has been announced at the Summer Meeting. |
| Boiler & Machinery Coverage | \$ - | \$ - | \$ - | \$ - | Low Range - Based on no change in rates and 3% increase in values. High Range - Based on no change in rates and 5% increase in values. |
| Local Government Property Insurance Fund | \$ 198,249 | \$ 205,720 | \$ 185,283 | \$ 187,486 | |
| | | 3.77% | -9.83% | 1.19% | |

Projected Loss Cost Multiplier increased by 17.4% regarding the 2013-14 policy year. Premium increase could also project 3% increase in property values. Estimate can be provided if 2012 & 2013 LGPIF information pages are provided and ten years of loss information is provided from the LGPIF.

| | 20012 Rates | 2013 Rates | 2014 Low Rates | 2014 High Rates |
|----------------------|-------------|------------|----------------|-----------------|
| Auto Physical Damage | | | | |
| Vehicle Value | \$ 3,4670 | \$ 0,34670 | \$ 0,34670 | \$ 0,38137 |
| Vehicle Count | 2,500 | 0,26560 | 0,26560 | 0,29216 |
| Vehicles as of | 5,000 | 0,22800 | 0,22800 | 0,25080 |
| Rates: | | | | |
| | | | | |

Note: This is an estimate of the cost of insurance for the 2014 policy year. The WC rates effective 10/1/13 have been published by the WCRB and these rates have been used. The experience modification for 2014 has not been issued by the WCRB and needs to be used when published. These estimates for the group purchase programs are based on figures developed on estimates presented at the Summer Meeting. The liability premium is the actual 2014 premium and the dividends have been declared and final figures were reported at the Summer Meeting for payment in 2014.

Market: IL / WI
Cell Site Number: WI6094
Cell Site Name: Menasha Substation
Fixed Asset Number: 10083274

FIRST AMENDMENT TO GROUND SITE LEASE AGREEMENT

FIRST AMENDMENT TO GROUND SITE LEASE AGREEMENT (“First Amendment”), dated as of the latter of the signature dates below, is by and City of Menasha, a municipal corporation, (“Lessor”) and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (“Lessee”).

WHEREAS, Lessor and TeleCorp Realty, LLC – Lessee’s predecessor in interest - entered into a Ground Site Lease Agreement dated March 30, 2001 whereby Lessor leased to Lessee’s predecessor in interest portions of the Property located at 455 Baldwin Street, Menasha, Wisconsin (“Agreement”);

WHEREAS, Lessor and Lessee desire to amend the Agreement to allow for the installation a microwave dish and related telecommunications equipment;

WHEREAS, Lessor and Lessee desire to amend the Agreement to modify the rent amount;

WHEREAS, Lessor and Lessee in their mutual interest, wish to amend the Agreement as set forth below accordingly.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

SECTION 1. **Modification of Equipment** Lessor and Lessee acknowledge that Exhibit C to the Agreement is hereby deleted in its entirety and replaced with Exhibit C-1 attached hereto.

SECTION 2. **Modification to Rent**. Lessor agrees that beginning on the first day of the month after construction begins, the amount of rent due to Lessee shall increase by \$400.00 per month and continue to increase pursuant to the terms of the Agreement.

SECTION 3. **Notice** Section 20 of the Agreement is hereby modified to update Lessee’s notice address to the following:

If to Tenant:

New Cingular Wireless PCS, LLC
Attn: Network Real Estate Administration

Re: Cell Site #:WI6094; Cell Site Name: Menasha Substation WI(State
Abbreviation)
Fixed Asset No: 10083274
575 Morosgo Dr.
13-F West Tower
Atlanta, GA 30324

With a copy to:

New Cingular Wireless PCS, LLC
Attn: AT&T Legal Department
Re: Cell Site #: WI6094; Cell Site Name: Menasha Substation WI (State
Abbreviation)
Fixed Asset No: 10083274
208 S. Akard Street
Dallas, Texas, 75202-4206

SECTION 4. Miscellaneous

4.1. **Emergency 911 Service.** In the future, without the payment of additional rent and at a location mutually acceptable to Lessor and Lessee, Lessor agrees that Lessee may add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including but not limited to emergency 911 communication services. Any equipment added under authority provided per this section shall not exceed fifty (50) lbs. without the consent of the Lessor.

~~4.2. **Memorandum of Lease.** Either party will, at any time upon thirty (30) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease substantially in the form of Exhibit D attached. Either party may record this memorandum at any time, in its absolute discretion.~~

4.3. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Agreement and this First Amendment, the terms of this First Amendment shall control. Except as expressly set forth in this First Amendment, the Agreement otherwise is unmodified and remains in full force and effect. Each reference in the Agreement to itself shall be deemed also to refer to this First Amendment.

4.4. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Agreement.

IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this First Amendment on the dates set forth below.

“LESSOR”

City of Menasha

By: _____
Name: _____
Title: _____
Date: _____

“Lessee”

New Cingular Wireless PCS, LLC,
a Delaware limited liability company

By: AT&T Mobility Corporation
Its: Manager

By: _____
Name: _____
Title: _____
Date: _____

LICENSEE ACKNOWLEDGEMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____ in the year ____ before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public: _____
My Commission Expires: _____

LICENSOR ACKNOWLEDGEMENT

STATE OF _____)
)
COUNTY OF _____)

I CERTIFY that on _____, 2013, _____
[_____] personally came before me and acknowledged under oath that he or she:

- (a) is the _____ [_____] of City of Menasha
- (b) was authorized to execute this instrument on behalf of City of Menasha
- (c) executed the instrument as the act of the City of Menasha.

Notary Public
My Commission Expires: _____

THIRD AMENDMENT to the LEASE AGREEMENT
Between Morton Martin I LLC, Dumke and Associates, LLC and the City of Menasha
DATED March 17, 2008
AMENDED December 21, 2010
AMENDED November 10, 2011

THIS THIRD AMENDMENT TO THE LEASE AGREEMENT, executed in Menasha, Wisconsin on this ____ day of August, 2013, is made effective between Morton Martin I LLC, OLH, LLC and the City of Menasha and is made with reference to the Lease Agreement dated March 17, 2008, First Amendment to the Lease Agreement dated December 21, 2010, and Second Amendment to the Lease Agreement dated November 10, 2011.

1. Add to paragraph 2. Term(e) 2014 Renewal Term. This Lease Agreement shall recommence on January 1, 2014 and end December 31, 2015.
2. Extend the Second Amendment to the Lease Agreement dated November 10, 2011, Rental rate of \$4.00 per square foot for 2 more years.
3. All other terms and conditions set forth in the initial agreement dated March 17, 2008, First Amendment to the Lease Agreement, and Second Amendment to the Lease Agreement, unless inconsistent with the above changes, shall remain the same.
4. Landlord reserves the right to serve a 120 day notice to the City of Menasha to vacate property at any time during this lease extension.

IN WITNESS WHEREOF, the undersigned have executed the Amendment as of the date first written above:

Morton Martin I, LLC

Donald Merkes, Mayor
City of Menasha

OLH, LLC



To: Members of the Administration Committee

From: Chief Tim Styka

Date: August 26, 2013

RE: Anti-Bullying / Harassment

The issue of bullying is a complex social problem which is being addressed through education, policies and laws. Members of the Winnebago Crime Stoppers have been working primarily in the schools to implement programs to prevent bullying and provide a foundation of what behavior is not acceptable. They have also been working to solicit changes to local ordinances to provide for a consequence when a situation occurs.

Bullying is defined by the Menasha Joint Area School District as:

... deliberate or intentional behavior using word or actions, intended to cause fear, intimidation, or harm. Bullying may be a repeated behavior and involves an imbalance of power. Furthermore, it may be serious enough to negatively impact a student's educational, physical, or emotional well being. The behavior may be motivated by an actual or perceived distinguishing characteristic, such as, but not limited to: age; national origin; race; ethnicity; religion; gender; gender identity; sexual orientation; physical attributes; physical or mental ability or disability; and social, economic, or family status; however this type of bullying behavior need not be based on any of the legally protected characteristics. It includes, but is not necessarily limited to such behaviors as stalking, cyberbullying, intimidating, menacing, coercing, name-calling, taunting, making threats, and hazing.

Bullying does not just take place in school. Bullying can also take place between neighbors or co-workers. The actions which constitute bullying can take a variety of different forms. We currently have ordinances, such as Disorderly Conduct, which can address many of these behaviors.

However, many of the situations we deal with utilize telephones or electronic communications devices. Two State Statutes, 947.012 Unlawful Use of the Telephone and 947.0125 Unlawful Use of Computerized Communication Systems, specifically define and address these illegal actions. Copies of these Statutes have been attached for your review. Although State charges are an option, we believe it would be more appropriate for an ordinance charge for many of these violations instead of a criminal charge.

By adopting these two State Statutes the Common Council will provide the tools needed to address the issue of bullying. This also sends a message that Menasha is unified with the School District in addressing the issues with bullying.

CHAPTER 947

CRIMES AGAINST PUBLIC PEACE, ORDER AND OTHER INTERESTS

| | | | |
|----------|---|---------|--|
| 947.01 | Disorderly conduct. | 947.017 | Threats to release chemical, biological, or radioactive substances. |
| 947.011 | Disrupting a funeral or memorial service. | 947.02 | Vagrancy. |
| 947.012 | Unlawful use of telephone. | 947.04 | Drinking in common carriers. |
| 947.0125 | Unlawful use of computerized communication systems. | 947.06 | Unlawful assemblies and their suppression. |
| 947.013 | Harassment. | 947.07 | Causing violence or breach of the peace by damaging or destroying a U.S. flag. |
| 947.015 | Bomb scares. | | |

Cross-reference: See definitions in s. 939.22.

947.01 Disorderly conduct. (1) Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance is guilty of a Class B misdemeanor.

(2) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of, this section for loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried.

History: 1977 c. 173; 1979 c. 131; 2011 a. 35.

The defendant was properly convicted of disorderly conduct when he appeared on a stage wearing a minimum of clothing intending to and succeeding in causing a loud reaction in the audience. *State v. Maker*, 48 Wis. 2d 612, 180 N.W.2d 707 (1970).

An attorney was properly convicted under this section for refusing to leave a ward in a mental hospital until he had seen a client after having made statements in the presence of patients that caused some to become agitated. *State v. Eison*, 60 Wis. 2d 54, 208 N.W.2d 363 (1973).

It was not disorderly conduct for 4 people to enter an office with other members of the public for the purpose of protesting the draft and to refuse to leave on orders of the police when their conduct was not otherwise disturbing. *State v. Werstein*, 60 Wis. 2d 668, 211 N.W.2d 437 (1973).

This statute does not require a victim, but when the disorderly conduct is directed at a person, that person is the victim for the purpose of prosecuting the perpetrator for intimidating a victim under s. 940.44. *State v. Vinje*, 201 Wis. 2d 96, 548 N.W.2d 118 (Ct. App. 1996), 95-348.

A "true threat" is a statement that a speaker would reasonably foresee that a listener would reasonably interpret as a serious expression of a purpose to inflict harm, as distinguished from hyperbole, jest, innocuous talk, expressions of political views, or other similarly protected speech. It is not necessary that the speaker have the ability to carry out the threat. *State v. Perkins*, 2001 WI 46, 243 Wis. 2d 141, 626 N.W.2d 762, 94-1924.

Purely written speech, even written speech that fails to cause an actual disturbance, can constitute disorderly conduct, but the state has the burden to prove that the speech is constitutionally unprotected "abusive" conduct. "Abusive" conduct is conduct that is injurious, improper, hurtful, offensive, or reproachful. "True threats" clearly fall within the scope of this definition. *State v. Douglas D.*, 2001 WI 47, 243 Wis. 2d 204, 626 N.W.2d 725, 99-1767.

Application of the disorderly conduct statute to speech alone is permissible under appropriate circumstances. When speech is not an essential part of any exposition of ideas, when it is utterly devoid of social value, and when it can cause or provoke a disturbance, the disorderly conduct statute can be applicable. *State v. A.S.*, 2001 WI 48, 243 Wis. 2d 175, 626 N.W.2d 712, 99-2317.

Disorderly conduct does not necessarily require disruptions that implicate the public directly. This section encompasses conduct that tends to cause a disturbance or disruption that is personal or private in nature, as long as there exists the real possibility that the disturbance or disruption will spill over and disrupt the peace, order, or safety of the surrounding community as well. Sending repeated, unwelcome, and anonymous mailings was "otherwise disorderly conduct." *State v. Schwelke*, 2002 WI 55, 253 Wis. 2d 1, 644 N.W.2d 666, 99-3204.

Defiance of a police officer's order to move is itself disorderly conduct if the order is lawful. *Braun v. Baldwin*, 346 F.3d 761 (2003).

947.011 Disrupting a funeral or memorial service.

(1) In this section:

(a) "Facility" includes a cemetery in which a funeral or memorial service takes place.

(b) "Funeral or memorial service" includes a wake or a burial, as defined in s. 157.061 (1), but does not include a service that is not intended to honor or commemorate one or more specific decedents.

(2) (a) No person may do any of the following during a funeral or memorial service, during the 60 minutes immediately preced-

ing the scheduled starting time of a funeral or memorial service if a starting time has been scheduled, or during the 60 minutes immediately following a funeral or memorial service:

1. Engage in conduct that is prohibited under s. 947.01 (1) within 500 feet of any entrance to a facility being used for the service with the intent to disrupt the service.

2. Intentionally block access to a facility being used for the service.

(b) No person, with the intent to disrupt a funeral procession, may impede vehicles that he or she knows are part of the procession.

(c) No person may do any of the following during a funeral or memorial service, during the 60 minutes immediately preceding the scheduled starting time of a funeral or memorial service if a starting time has been scheduled, or during the 60 minutes immediately following a funeral or memorial service:

1. Engage in conduct that is prohibited under s. 947.01 (1) within 500 feet of any entrance to a facility being used for the service.

2. Block access to a facility being used for the service.

(d) No person may impede vehicles that are part of a funeral procession if the person's conduct violates s. 947.01 (1).

(3) (a) Except as provided in par. (b), any person who violates this section is guilty of a Class A misdemeanor.

(b) Any person who violates sub. (2) (a) or (b) after having been convicted of a violation of this section is guilty of a Class I felony.

History: 2005 a. 114; 2011 a. 35.

947.012 Unlawful use of telephone. (1) Whoever does any of the following is guilty of a Class B misdemeanor:

(a) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.

(b) With intent to frighten, intimidate, threaten or abuse, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(c) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number.

(2) Whoever does any of the following is subject to a Class B forfeiture:

(a) With intent to harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(b) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.

(c) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.

(d) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to harass any person at the called number.

(e) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

History: 1979 c. 131; 1991 a. 39.

947.0125 Unlawful use of computerized communication systems. (1) In this section, "message" means any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or any transfer of a computer program, as defined in s. 943.70 (1) (c).

(2) Whoever does any of the following is guilty of a Class B misdemeanor:

(a) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(b) With intent to frighten, intimidate, threaten, abuse or harass another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message threatens to inflict injury or physical harm to any person or the property of any person.

(c) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(d) With intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(e) With intent to frighten, intimidate, threaten or abuse another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to frighten, intimidate, threaten or abuse another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(3) Whoever does any of the following is subject to a Class B forfeiture:

(a) With intent to harass, annoy or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(b) With intent to harass, annoy or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(c) With intent solely to harass another person, sends repeated messages to the person on an electronic mail or other computerized communication system.

(d) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.

(e) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.

(f) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.

(g) Knowingly permits or directs another person to send a message prohibited by this section from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.

History: 1995 a. 353.

947.013 Harassment. (1) In this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(b) "Credible threat" means a threat made with the intent and apparent ability to carry out the threat.

(c) "Personally identifiable information" has the meaning given in s. 19.62 (5).

(d) "Record" has the meaning given in s. 19.32 (2).

(1m) Whoever, with intent to harass or intimidate another person, does any of the following is subject to a Class B forfeiture:

(a) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.

(b) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(1r) Whoever violates sub. (1m) under all of the following circumstances is guilty of a Class A misdemeanor:

(a) The act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm.

(b) The act occurs while the actor is subject to an order or injunction under s. 813.12, 813.122 or 813.125 that prohibits or limits his or her contact with the victim.

(1t) Whoever violates sub. (1r) is guilty of a Class I felony if the person has a prior conviction under this subsection or sub. (1r), (1v), or (1x) or s. 940.32 (2), (2e), (2m), or (3) involving the same victim and the present violation occurs within 7 years of the prior conviction.

(1v) Whoever violates sub. (1r) is guilty of a Class H felony if he or she intentionally gains access to a record in electronic format that contains personally identifiable information regarding the victim in order to facilitate the violation under sub. (1r).

(1x) Whoever violates sub. (1r) under all of the following circumstances is guilty of a Class H felony:

(a) The person has a prior conviction under sub. (1r), (1t) or (1v) or this subsection or s. 940.32 (2), (2e), (2m), or (3).

(b) The person intentionally gains access to a record in order to facilitate the current violation under sub. (1r).

(2) This section does not prohibit any person from participating in lawful conduct in labor disputes under s. 103.55.

History: 1985 a. 336; 1991 a. 194; 1995 a. 496; 2001 a. 109.

This section is not a safety statute and does not grant a private right of action for its violation. In re Estate of Drab, 143 Wis. 2d 568, 422 N.W.2d 144 (Ct. App. 1988).

947.015 Bomb scares. Whoever intentionally conveys or causes to be conveyed any threat or false information, knowing such to be false, concerning an attempt or alleged attempt being made or to be made to destroy any property by the means of explosives is guilty of a Class I felony.

History: 1977 c. 173; 2001 a. 109.

This section is not an included crime in s. 941.36, recklessly endangering safety. State v. Van Arck, 62 Wis. 2d 155, 215 N.W.2d 41 (1974).

Read with the requirement that only "true threats" can be prosecuted, this section does not violate the guarantee of free speech. State v. Robert T. 2008 WI App 22, 307 Wis. 2d 482, 746 N.W.2d 564, 96-2206.

947.017 Threats to release chemical, biological, or radioactive substances. (1) In this section:

ORDINANCE O - 4 -13

AN ORDINANCE AMENDING SECTION 11-1-1 OF THE CODE OF ORDINANCES
(Unlawful Use of Telephone and Computer)

INTRODUCED BY MAYOR MERKES AND ALDERMAN KEEHAN

The Common Council of the City of Menasha does hereby ordain as follows:

SECTION 1: Amend Title 11, Chapter 1, SEC.11-1-1 of the Code of Ordinances
of the City of Menasha, Wisconsin as follows:

CHAPTER 1

State Statutes Adopted

SEC. 11-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

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

...

- 947.012 Unlawful use of telephone
- 947.0125 Unlawful use of computerized communication systems

...

SECTION 2: This amending Ordinance shall take effect upon passage and publication as provided by law.

Passed and approved this day of , 2013.

Donald Merkes, Mayor

ATTEST: _____
Deborah A. Galeazzi, City Clerk