

CHAPTER 2

Offenses Against Public Safety and Peace

SEC. 11-2-1 REGULATION OF FIREARMS AND EXPLOSIVES.

- (a) **DISCHARGE OF FIREARMS REGULATED.** No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description within the City. This Section does not apply and may not be enforced if the person's conduct is justified or, had it been subject to a criminal penalty would have been subject to a defense described in §939.45, Wis. Stats.
- (b) **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.
- (c) **SHOOTING RANGES.** This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council, after an advisory recommendation from the Chief of Police, where proper safety precautions are taken.
- (d) **EXPLOSIVE DEVICES.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Chief of Police.
- (e) **SHOOTING PROHIBITED.** Shooting is banned on the Fox River within the corporate limits of the City of Menasha.
- (f) **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.

SEC. 11-2-2 CARRYING CONCEALED WEAPONS PROHIBITED; CERTAIN WEAPONS PROHIBITED.

- (a) **CONCEALED WEAPONS PROHIBITED.**
 - (1) No person shall within the City wear or in any manner carry under his clothes or conceal upon or about his 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) Notwithstanding (a)(1) above, no person shall carry a concealed weapon into or within any building owned or occupied by the City, except law enforcement officers acting within the scope of their duties.
 - (3) "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
- (b) **POSSESSION, SALE AND MANUFACTURE OF CERTAIN WEAPONS PROHIBITED.**
 - (1) No person shall sell, manufacture, purchase, possess or carry a "Numchuk" (also called a "Nunchaku") or a "Churkin" or a "Suchbai" or similar weapon within the City of Menasha.
 - (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. "Sucbai." 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.

SEC. 11-2-3 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.

- (a) It shall be unlawful for any person to discharge or throw by any means any dangerous missile, object, arrow or bolt, stone, snowball or other missile within the City of Menasha, provided, however, upon written application to the Chief of Police and Common Council, a person may be granted permission by the Common Council to construct and maintain supervised archery ranges if, in the opinion of the Common Council, the construction or maintenance of such ranges will not endanger the public health and safety.
- (b) **HUNTING.** This section shall not prevent a person from hunting with a bow and arrow or crossbow in the following circumstances:
 - (1) If the person is hunting in accordance with Wisconsin Department of Natural Resources regulations; and
 - (2) The discharge is greater than 100 yards from a building, used for human occupancy, unless the person who owns the land on which the building is located allows the hunter to hunt within 100 yards of the building; and
 - (3) The discharge of the arrow or bolt from the respective weapon is toward the ground.

SEC. 11-2-4 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he shall be authorized by a fireworks permit as provided in Title 7, Chapter 8, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all rockets or similar missiles containing explosive fuel.

SEC. 11-2-5 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

- (a) **OBSTRUCTING STREETS.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.
- (b) **BLOCKING SIDEWALK PROHIBITED.** No person shall block any sidewalk 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) **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.

(d) **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) Block. 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 walk.
- (2) 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.

SEC. 11-2-6 LOITERING 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 police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

SEC. 11-2-7 LOUD AND UNNECESSARY NOISE PROHIBITED.

(a) **LOUD AND UNNECESSARY NOISE PROHIBITED.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise.

(b) **TYPES OF LOUD AND UNNECESSARY NOISES.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

- (1) Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the City for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
- (2) Radios, phonographs, similar devices. The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly

audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

- (3) Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
- (4) Animals, birds. The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
- (5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper City authorities.
- (6) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffle or other device which will effectively prevent loud or explosive noises therefrom.
- (7) Construction or repair of buildings. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Building Inspector shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
- (8) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.
- (9) The provisions of this Section shall not apply to:
 - a. Any vehicle of the City while engaged in necessary public business.
 - b. Excavations or repairs of streets or other public construction by or on behalf of the City, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
 - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
 1. Operation of Certain Equipment. Lawn mowers, chain saws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
 2. Exemptions. Operations of emergency equipment shall be exempt from this Chapter. Snow blowers not operated on a commercial basis shall be exempt from this Chapter when used to gain access to a City street. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City.

3. Appeals. The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Chapter for existing industries.

(c) **PERMITS FOR AMPLIFYING DEVICES.**

- (1) Permit Required. The use of loudspeakers or amplifying devices on the streets or in the parks of the City of Menasha is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police for street use or the Director of Parks, Recreation, Forestry and Cemeteries for park use.
- (2) Grounds or Reasons for Denial or Allowance. The Chief of Police or Director of Parks, Recreation, Forestry and Cemeteries shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.
- (3) Time Restrictions. The Chief of Police or Director of Parks, Recreation, Forestry and Cemeteries shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:30 p.m. On New Years Eve, a permit may be issued to allow such loud speaker or amplifying device until 12:30 am on January 1st. Nor shall a permit be granted to anyone who, in the opinion of the Chief of Police or Director of Parks, Recreation, Forestry and Cemeteries, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

SEC. 11-2-8 DISORDERLY CONDUCT.

- (a) **DISORDERLY CONDUCT PROHIBITED.** No person within the City of Menasha shall:
 - (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.
 - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
 - (3) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of a person apply, no person may be in violation of disorderly conduct under this section for loading, a firearm, or for carrying, or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried.
- (b) **DISORDERLY CONDUCT WITH MOTOR VEHICLE.** No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.
- (c) **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, stairways or elevators of public or commercial buildings, or to indecently expose his person.

SEC. 11-2-9 POSSESSION OF DANGEROUS AND CONTROLLED SUBSTANCES.

- a) **CONTROLLED SUBSTANCES.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161 of the Wisconsin Statutes. or chemicals or products that contain chemicals temporarily controlled by the United States Drug Enforcement Administration, using its emergency scheduling authority, as published in the Federal Register.
- b) **POSSESSION OF MARIJUANA.** No person shall possess any amount of marijuana, tetra-hydrocannabinoids or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose and the use of the marijuana is permitted under State and Federal laws.
- c) **POSSESSION OF DRUG PARAPHERNALIA.** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section. State Law Reference: Chapter 961, Wis. Stats.
- d) **POSSESSION SYNTHETIC CANNABINOID.**
 - (1) No person shall possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals or products that contain them whether under the common street or trade names of "Spice", "K2", "Genie", "Yucatan Fire", "Fake", "Mr. Smiley", "Budz", "Summit 420" or "new marijuana", or by any other name, label, or description:
 - a. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-01 - some trade or other names: HU-210
 - b. 2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone - some trade or other names: JWH-015
 - c. 1-Pentyl-3-(1-naphthoyl) indole - some trade or other names: JWH-018
 - d. 1-Butyl-3-(1naphthoyl) indole - some trade or other names: JWH-073
 - e. (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro -6,6,9-trimethyl-6H-dibenzo[b,d]pyran) – some trade or other names: JWH-133
 - f. 1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone – some trade or other names; JWH-200
 - g. 1-pentyl-3-(2-methoxyphenylacetyl) indole – some trade or other names; JWH-250
 - h. 2-[(1R,3S)-3-hydroxycyclohexyl]- 5-(2-methyloctan-2-yl)phenol - some trade or other names: CP47,497 and homologues
 - i. Any similar structural analogs of the identified in chemical compounds (a-h).
 - j. Any other compounds containing cannabinoid receptor agonists that are designed, produced, manufactured, synthesized, grown, cultivated, harvested, used or otherwise prepared to produce or mimic the effects of tetrahydrocannabinol (THC).
 - (2) The unlawful acts in this section shall not be applicable to a person who is under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under State and Federal laws.

SEC. 11-2-10 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY PROHIBITED.

- (a) It shall be unlawful for any person, except as provided in Subsection (b) hereof, to be present in, loiter or enter into any public school building, school parking lot or on any public

school grounds without the permission of the school principal, custodian or other person in charge thereof between 7:30 a.m. and 4:30 p.m. on official school days.

- (b) This Section shall not apply to:
 - (1) Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof to leave the school building or school grounds;
 - (2) Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this exception shall apply only to the portion of the premises on which facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;
 - (3) Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.
- (c) The exceptions set forth in Subsection (b) shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.
- (d) All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

SEC. 11-2-11 FAILURE TO OBEY LAWFUL ORDER.

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

SEC. 11-2-12 RECEIVING STOLEN PROPERTY.

It shall be unlawful for any person to intentionally receive or conceal property with a value of under Three Hundred Dollars (\$300.00) that he knows to be stolen, or to aid and abet such activity.

SEC. 11-2-13 HABITUAL TRUANCY PROHIBITED.

- (a) No child subject so school attendance laws shall be a truant or a habitual truant as defined in this section.
 - (1) For purposes of this section, "habitual truant" shall mean a child or pupil who is absent from school without an acceptable excuse as provided in sec. 118.15, Wis. Stats., as may be amended from time to time, for part or all of five (5) or more days on which school is held during a school semester.
 - (2) For purposes of this section, "truant" shall mean a child or pupil who is absent from school without an acceptable excuse as provided in sec. 118.15, Wis. Stats., as may be amended from time to time, for part or all of any day on which school is held during a school semester.
- (b) A child who is found to be habitually truant shall be subject to one or more of the following dispositions:
 - (1) An order for the child to attend school.
 - (2) Suspension of the child's operating privileges, as defined in sec. 340.01(40), Wis. Stats., as may be amended from time to time, for not less than 30 days nor more than 1 year. The court shall immediately take possession of any suspended license

- and forward it to the State Department of Transportation together with a notice stating the reason for and the duration of the suspension.
- (3) An order for the child to participate in counseling or a supervised work program administered by school officials.
 - (4) An order for the child to be placed in a teen court program as described in sec. 938.342 Wis. Stats.
 - (5) A forfeiture of not less than \$50.00 nor more than \$500.00.
 - (6) Suspension of hunting or fishing licenses for up to one year.
- (c) A child who is found to be truant shall be subject to one or more of the following dispositions:
- (1) An order for the child to attend school.
 - (2) A forfeiture of not more than \$50.00 for a first violation, or a forfeiture of not more than \$100.00 for any 2nd or subsequent violation committed within 12 months of a previous violation. Such forfeiture shall be subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester.
 - (3) An order for the child to perform community service.
- (d) Contributing to Truancy
- (1) No person 17 years of age or older, by any act or omission, shall knowingly encourage or contribute to truancy, as defined under section 11-2-13 (a) of a person 17 years of age or under.
 - (2) Subsection (1) does not apply to a person who has under his or her control a child who has been sanctioned under s. 49.26 (1) (h) Wisconsin Statutes.
 - (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 truant.

SEC. 11-2-14 HARBORING MINORS PROHIBITED.

No person shall, unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the City police department of the existence of a minor described in (1) below on premises owned or operated by or under the control of such person:

- (1) By any means conceal or shelter or assist in the concealing of sheltering of any minor under the age of eighteen (18) years while the minor is under the legal custody of a parent or legal guardian and while the minor is on report with any law enforcement as a "missing person", a "runaway", or a "wanted" person; or,
- (2) Supply false information to or obstruct any police officer in the performance of his duty to locate or take into custody any minor described in this section.

SEC. 11-2-15 RESTRICTIONS ON SALE OR GIFT OF CIGARETTES OR NICOTINE OR TOBACCO PRODUCTS TO MINORS.

(a) **DEFINITIONS.** In this section:

- (1) Cigarette has the meaning given in Sec. 139.30(1m), Wis. Stats.
- (2) Direct marketer has the meaning given in Sec. 139.30(2n), Wis. Stats.
- (3) Distributor means a person specified under Sec. 139.30(3) or 139.75(4), Wis. Stats.
- (4) Identification card means a license containing the photograph issued under Chapter 343, Wis. Stats., an identification card issued under Sec. 343.50, Wis. Stats., an

identification issued under Sec. 125.085, Wis. Stats.

- (5) Jobber has the meaning given in Sec. 139.30(6), Wis. Stats.
- (6) Manufacturer means any person specified under Secs. 139.30(7) or 139.75(5), Wis. Stats.
- (7) Nicotine product means a product that contains nicotine and is not any of the following:
 - a. A tobacco product.
 - b. A cigarette.
 - c. A product that has been approved by the U.S. Food and Drug Administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.
- (8) Retailer means any person licensed under Sec. 134.65(1), Wis. Stats.
- (9) Subjobber has the meaning given in Sec. 139.75(11), Wis. Stats.
- (10) Tobacco products has the meaning given in Sec. 139.75(12), Wis. Stats.
- (11) Vending machine has the meaning given in Sec. 139.30(14), Wis. Stats.
- (12) Vending machine operator has the meaning given in Sec. 139.30(15), Wis. Stats.

(b) **RESTRICTIONS.**

- (1) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 18 years of age.
- (2) Except as provided in Sec. 11-6-6(c), no retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or give cigarettes, nicotine products or tobacco products to any person under 18 years of age. A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products or tobacco products from his or her vending machine by a person under 18 years of age if the vending machine operator was unaware of the purchase.
- (3) No retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained 18 years of age.
- (4) A retailer or vending machine operator may not sell cigarettes or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained 18 years of age.
- (5) No retailer or direct marketer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under Sec. 139.32(1), Wis. Stats.

(c) **DEFENSE.** Proof of all the following facts by a retailer, manufacturer, distributor, jobber, or subjobber, an agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber, or an agent or employee of an independent contractor who sells cigarettes or tobacco products to a person under 18 years of age is a defense to any prosecution for a violation of Subsection (b)(2) above:

- (1) That the purchaser falsely represented that he or she had attained 18 years of age and presented an identification card.
- (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained 18 years of age.

- (3) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained 18 years of age.
- (d) **PENALTY.**
 - (1) A person who commits a violation is subject to a forfeiture of:
 - a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or
 - b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

SEC. 11-2-16 RESIDENTIAL OUTDOOR LIGHTING.

- (a) **PURPOSE.** To minimize “light trespass” or “obtrusive light,” or more specifically to regulate and reduce any nuisance by caused artificial illumination of property and buildings; to mitigate the impact on ecosystems; to promote the safety and welfare of citizens by restricting glare producing sources of light; and generally establish proper levels of lights.
- (b) **APPLICABILITY.** This ordinance applies to all exterior lights installed, erected or maintained on residential parcels.
- (c) **LIGHT TRESPASS.** Any exterior mounted light at a property zoned residential is prohibited except:
 - (1) If the luminaire is mounted below an eave which is not higher than 12 feet from the ground of any structure on the property and the total luminaire output measurement is less than 2000 lumens or 185 horizontal foot-candles.
 - (2) If the luminaire is mounted below an eave which is higher than 12 feet from the ground of any structure on the property and the total luminaire output measurement exceeds 2000 lumens or 185 horizontal foot-candles then the light must be fully shielded to prevent glare and be directed no more than 45 degrees above straight down.
 - (3) Any light mounted to a pole below the level of the eave of the primary structure.
 - (4) Any light mounted to a pole above the level of the eave of the primary structure which is serviced by a public utility company.
 - (5) Landscape lighting less than 2000 lumens or 185 horizontal foot-candles per luminaire.
- (d) **LIGHT TRESPASS AT PROPERTY LINE.** All areas containing outdoor lighting or illumination (except public street lighting) shall limit light trespass onto adjacent property, when measured at any point along a property line. Compliance shall be achieved by utilizing luminaire shielding, directional control designed into luminaires, luminaire location, height, or aim or a combination of these and other factors. The maximum illumination spillage to adjoining lots measured in foot-candles shall be 0.20 for residential parcels.