CHAPTER 9

ORDERLY CONDUCT

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9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. The following statutes following the prefix "9" 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 §25.04 of this Code. (2323 10/27/2009; 2339 06/06/2010; 2366 10/11/2011; 2380 06/12/2012; 2459 07/11/2017; 2547 4/21/2020)

9.134.65	Cigarette and Tobacco Products Retail License
9.940.19(1)	Battery
9.941.01	Negligent Operation of Vehicle
9.941.10	Negligent Handling of Burning Material
9.941.327	Tampering with Household Products
9.942.01	Defamation
9.942.08	Invasion of Privacy
9.942.09	Representations Depicting Nudity
9.943.01(1)	Criminal Damage to Property (Where Damage is less than $200)
9.943.017	Graffiti
9.943.11	Entry into Locked Vehicle
9.934.13	Trespass to Land
9.943.14	Trespass to Dwelling
9.943.20	Theft (Less Than $100)
9.943.50	Shoplifting
9.943.61	Theft of Library Material
9.944.20	Lewd and Lascivious Behavior
9.944.25	Sending Obscene or Sexually Explicit Electronic Messages
9.946.31	Perjury
9.946.32	False Swearing
9.947.01	Disorderly Conduct
9.947.013	Harassment
9.943.212	Defrauding a Hotel, Restaurant, Recreation Attraction, Taxi, or Gas Station

9.943.215	Absconding without Paying Rent
9.943.24	Issuance of Worthless Checks
9.961.41(3g)	Possess/Attempt to Possess Controlled Substance without Prescription
9.961.43(1)	Obtain/Attempt to Obtain Prescription by Fraud or Misrepresentation
9.961.573(1)	Possession of Drug Paraphernalia
9.943.13(1m)(c)	Enters or remains on property while concealed carry when notified not to enter or remain.
9.947.0125	Unlawful Use of Computerized Communication Systems
9.948.45	Contributing to Truancy

9.015 INCHOATE OFFENSES. (2331 10/22/2009)

(1) CONSPIRACY. Whoever, with intent that an ordinance violation be committed, agrees or combines with another for the purpose of committing that ordinance violation may, if one or more of the parties to the conspiracy does an act to effect its object, be cited with violation of the ordinance.

(2) ATTEMPT. Whoever attempts to commit an ordinance violation may be cited for violation of the ordinance.

9.02 USE OF FIREARMS.

(1) REGULATED. No person except an authorized police officer shall discharge any firearm within the City, except as provided in par. (2), below. "Firearm" shall mean any weapon from which a shot may be fired by the force of an explosive or propellant, including, but not limited to, rifles, pistols, shotguns, air guns and BB guns.

(2) EXCEPTIONS.
1. National Guard indoor firing range.
2. Certified indoor firing ranges. (2366 10/11/2011)
3. Authorized gun repair shops.
4. Airguns may be discharged within the confines of a private building if there is an adequate backstop or trap provided.
5. Blanks may be fired as part of public civic ceremonies or Council authorized parades if prior approval is obtained from the Chief of Police.
6. Pursuant to a hunting permit issued pursuant to §12.08, Ordinances, upon parcels approved for hunting, and subject to the restrictions upon the parcel. (2295 11/11/2008)
7. The person's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense of privilege in the Criminal Code (e.g., was under circumstances of coercion or necessity or was in self-defense). (See Wis. Stat. §66.0409(3)(b).) (2366 10/11/2011)

(3) USE OF OTHER DANGEROUS WEAPONS REGULATED. No person shall shoot or discharge any other dangerous weapon in any public building or on public land within the City.

9.03 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES. (2434 09/22/15, 2521 05/28/19, 2615 09/12/23)

(1) PROHIBITED. No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the City without the persons consent or that would tend to cause damages to any property or injury to any person or animal.

(2) EXCEPTIONS.
(a) This section shall not apply to archery ranges in City parks which are authorized and supervised by the Park and Recreation Commission.
(b) This section shall not apply while hunting with a State of Wisconsin issued hunting license. However, while hunting with a bow or crossbow, no person shall hunt within 100 yards from a building located on another person's land, unless that person who owns the land on which the building is located allows the hunter to hunt within the specified distance. Further, all persons hunting with a bow or crossbow shall discharge the arrow or bolt from the respective weapon toward the ground.
(c) This section shall not apply to any state or federally permitted activities.
(d) The Chief of Police or designee shall be authorized to grant exceptions to this section, in the sole discretion of the Chief of Police or designee, when said exception is requested no less than three (3) business days prior to the date the activity will take place. By receiving an exception to this section, the person(s) receiving the exception agree to indemnify, defend and hold the City harmless for any acts and/or omission of the indemnifying party and its officers, employees, agents, participants, partners, affiliates, representatives and volunteers, as applicable, as it may relate to activity that will be performed as the result of the exception.

9.04 MARIJUANA, POSSESSION AND USE PROHIBITED.

(1) DEFINITION. "Marijuana" means all parts of the plant cannabis sativa, whether growing or not, the seeds thereof; the resin extracted from

any part of the plant; and every compound, manufacture, salt, derivative, mixture of preparation of the plant, its seeds or resin.

(2) POSSESSION, DELIVERY AND USE PROHIBITED. It shall be unlawful for any person to possess, deliver, sell or use marijuana or a marijuana derivative. This section shall include, but not be limited to, those persons who possess, deliver, sell or use marijuana or a marijuana derivative in any amount and include those persons who are charged under this section for a first offense.

(3) EXCEPTION. This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. However, the burden of proof to prove such exception shall be on the person claiming it.

(4) PENALTY. Any person who shall violate any provision of this section shall, upon conviction, be subject to a penalty as provided in §25.04 of this Code. (1740 05/31/94)

9.05 SALE AND USE OF FIREWORKS REGULATED. (2233 08/08/2006)

(1) DEFINITION. The definition of "fireworks" stated in §167.10(1), Wis. Stats., is hereby adopted by reference.

(2) SALE REGULATED. Except as provided in §167.10(2) and (4), Wis. Stats., no person shall sell, or possess with the intent to sell, fireworks.

(3) USE REGULATED. Except as provided in §167.10(3), Wis. Stats., no person shall possess or use fireworks without a user's permit issued pursuant to sub. (4), below.

(4) USER'S PERMIT. As provided in §167.10(3), Wis. Stats., the Mayor may issue fireworks user's permits or other City official designated by the Mayor. The official issuing the permit shall require a certificate of liability insurance, or other similar proof of coverage, in an amount he deems necessary. The permit shall specify the date and location for which it is valid. A copy of the permit and proof of insurance shall be filed with the City Clerk, and copies of the permit shall be given to the Fire Chief and the Chief of Police at least 2 days before the authorized use. Every permitted use shall be handled by competent operator. Every permitted use shall be of such composition and character and shall be located, discharged, or fired so as, in the opinion of the Baraboo Fire Chief, after proper site inspection, not to be hazardous to any person or property. After a permit has been granted, possession and use of fireworks for permitted uses shall be lawful for the permitted date and location only. No permit granted hereunder shall be transferable.

(5) USE OF CERTAIN DEVICES REGULATED. No person may use fireworks or devices listed in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats., including, but not limited to, caps, toy snakes, model rocket engines, sparklers or cone fountains at a fireworks display for which a permit has been issued if the display is open to the general public.

(6) USE OF CERTAIN DEVICES PROHIBITED ON SCHOOL GROUNDS.

(a) Except as provided in (4) above, no person may use or possess those fireworks or devices described in §167.10(1)(e) to (g) and (i) to (n), Wis. Stats. on any of the University of Wisconsin Center Baraboo- Sauk County Campus property owned by the City of Baraboo and Sauk County or on any property owned by the School District of Baraboo or the sidewalks, tree banks, streets or public rights-of-way immediately abutting said properties. This prohibition includes, but is not limited to, caps, toy snakes, sparklers and cone fountains.

(b) No parent, guardian or other person having custody or charge of a minor under the age of 14 shall permit or allow such minor to violate par. (a), above.

(c) Any peace officer observing any person who appears to be violating par. (a), above may confiscate such devices or fireworks.

(7) All fireworks displays shall conform with the National Fire Protection Association Code Chapters 1123: Code for Fireworks Display, and 1126: Use of Pyrotechnics before a Proximate Audience.

9.06 LOUD AND UNNECESSARY NOISE PROHIBITED.

(1) GENERALLY. No person shall make or cause to be made any unreasonably loud, disturbing, or un-necessary sounds or noises such as may tend to annoy or unreasonably disturb a person of ordinary sensibilities in or about any public street, alley, or park, or any private residential property. (2130 12/09/03)

(2) PUBLIC ADDRESS SYSTEMS AND AMPLIFIERS. No person shall use or operate any public address system, amplifier, or device which increases the volume of voice, music, or other sounds tending to un-reasonably disturb the public peace or the quiet and peacefulness

of persons in the surrounding neighbor-hoods. (2130 12/09/03)

(3) CONSTRUCTION AND MACHINERY NOISE. (2450 09/27/2016) Between the hours of 10:00 P.M. and 6:30 A.M. no person shall do construction work or operate any chain saw, lawn mower or any other loud machinery of a similar nature. This subsection shall not apply to equipment or machinery being used for snow removal purposes, for Public Works or Utilities maintenance and service projects, or for emergency removal of debris caused by accident, weather conditions or other Act of God.

(4) EXCETPTIONS.

(a) The Baraboo Country Club is granted an exception to subsection (3) and allowed to operate lawn mowing equipment for the purpose of golf course maintenance beginning at 5:30 a.m. from May 1st until September 30th of each year. (2442 05/24/16)

(b) A Noise Permit for an exception to this ordinance may be granted by the Police Department upon written request provided to the Police Chief or designee at least fourteen days prior to the event that will cause noise. One Noise Permit may be granted for multiple days. The Police Chief or designee shall consider granting the Noise Permit based on the following:

i. The location of the noise
ii. The purpose for the noise
iii. Length of time the noise will be occurring
iv. How many people the noise will impact
v. Whether the public health, safety, or welfare is harmed
vi. Whether the noise impact outweighs the benefit to the public.

(c) The City of Baraboo is exempt from requiring a Noise Permit as required by subsection (b), above. (2504 10/23/18)

9.07 <u>LOITERING AND PANHANDLING PROHIBITED</u>.

(1) LOITERING OR PROWLING. 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.

(2) OBSTRUCTION OF HIGHWAY BY LOITERING. No person shall obstruct any street, bridge, sidewalk, or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

(3) OBSTRUCTION OF TRAFFIC BY LOITERING. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, treebanks, sidewalks, boulevards, street crossings or bridges or in any other public place within the City in such manner as to prevent, interfere with or obstruct the ordinary free use of such public sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.

(4) LOITERING IN PUBLIC PLACES. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by the owner or person in charge or any police officer. 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.

(5) LOITERING IN OR ON SCHOOL PROPERTY. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander or stand in or on any school property within the City between 7:00 A.M. and 5:00 P.M. on official school days.

(6) LOITERING PROHIBITED NEAR SCHOOL PROPERTY. (1712 12/21/93) [Historical Note: See original Ordinance No. 1712 for preface setting forth the underlying problem that caused §9.07(6) to be created.

(a) <u>Purpose</u>. The purpose of this Ordinance is to insure unimpeded student and pedestrian traffic flow to and from the Baraboo Senior High, Baraboo Junior High and Gordon Wilson Grade School, and to maintain and protect the physical safety and well-being of students attending the Baraboo Senior High, Baraboo Junior High and

Gordon Wilson Grade School, and pedestrians and to foster a safe and harassment free climate in public places for students and employees of the Baraboo School District and to reduce the likelihood of illegal drugs being sold, delivered or used in areas nearby to the above schools.

(b) Definitions.

1. "School Zone" shall mean all public places and special private places fronting on both sides of the following streets within the City:
   - Draper Street from Eighth Avenue (Ringling Boulevard) to Iroquois Circle
   - Algonquin Drive from Draper Street to Madison
   - Ninth Avenue from Park to Berkley Boulevard
   - All of Berkley Boulevard
   - Winnebago Circle (1736 05/17/94)
2. "Public Place" means an area generally visible to public view and includes streets, tree banks, sidewalks, alleys, parks, vacant lots, driveways, parking lots and buildings open to the general public and the doorways or entrances in buildings or dwellings and the grounds enclosing them and any other public place.
3. "Special Private Place" means private property where the owner or occupant thereof has filed a request in writing with the Baraboo Police Department to enforce the no loitering ordinance created by this subsection on their private property.
4. "Student" shall mean a person presently enrolled to attend a school under the jurisdiction of the Baraboo School District. A student shall not include a person who is truant or who is under suspension, expulsion, exemption or other discipline excluding him or her from attending a school under the jurisdiction of the Baraboo School District.
5. "Loiter" or "Loitering" shall mean to congregate, linger, wander, stand, delay, walk or stroll about aimlessly, or to remain idle in essentially one location in a manner and under circumstances manifesting an unnecessary or aimless purpose. The circumstances, among others, that may be considered in determining whether a person is loitering are that such person creates or causes to be created a tendency of a breach of peace, or creates or causes to be created any disturbance or annoyance to the comfort and dignity of any other person, or obstructs, hinders or interferes with the free passage of persons or vehicles, or obstructs, molests, harasses or interferes with other persons, or makes unsolicited remarks of an offensive, disgusting, or insulting nature which are calculated to annoy or disturb the person to, or in whose hearing, they are made, or that such person engages in conduct prohibited in §9.07(1) of this Code.

(c) Loitering Prohibited. No person shall loiter in or upon any public place or special private place within the school zone between the hours of 7:30 A.M. and 4:30 P.M. on school days without a lawful purpose. Whenever the presence of any person constitutes loitering in any public place or special private place, any police officer may order the person to leave that place and any such person who shall refuse to leave after being ordered to do so by a police officer shall be guilty of a violation of this section. Prior to an arrest for an offense under this section the police officer shall afford the person an opportunity to explain his/her conduct by requesting said person to identify himself/ herself and to 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 police or peace officer at the time, would have provided a lawful purpose for being within the school zone.

(d) Loitering By Minors Prohibited. No person under the age of 18 who is not a student shall congregate, loiter, wander, stroll, stand or play in or upon any public place or special private place in a school zone between the hours of 7:30 A.M. and 4:30 P.M. on school

days unless accompanied by his/her parent, guardian or other adult person having his/her care, custody or control.

(e) Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction such portion(s) shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portion(s) thereof.

(f) Penalty. Any person who shall violate any provision of this section shall, upon conviction, be subject to a penalty as provided in §25.04 of this Code.

(7) LOITERING AND PANHANDLING PROHIBITED. As used in this section, panhandling means any solicitation made in person upon any street, public place or park in the city, in which a person requests an immediate donation of money or other gratuity from another person, and includes but is not limited to seeking donations:

(a) By vocal appeal or for music, singing, or other street performance; and,

(b) Where the person being solicited receives an item of little or no monetary value in exchange for a donation, under circumstances where a reasonable person would understand that the transaction is in substance a donation. However, panhandling shall not include the act of passively standing or sitting nor performing music, signing or other street performance with a sign or other indication that a donation is being sought, without any vocal request other than in response to an inquiry by another person.

(c) It shall be unlawful to engage in an act of panhandling on any day after sunset, or before sunrise.

(d) It shall be unlawful to engage in an act of panhandling when either the panhandler or the person being solicited is located at any of the following locations: in a vehicle which is parked or stopped on a public street or alley; in a sidewalk café; or within twenty (20) feet in any direction from an automatic teller machine or entrance to a bank.

(e) It shall be unlawful to engage in an act of panhandling in an aggressive manner, including any of the following actions:

1) Touching the solicited person without the solicited person's consent.

2) Panhandling a person while such person is standing in line and waiting to be admitted to a commercial establishment;

3) Blocking the path of a person being solicited, or the entrance to any building or vehicle;

4) Following behind, ahead or alongside a person who walks away from the panhandler after being solicited;

5) Using profane or abusive language, either during the solicitation or following a refusal to make a donation, or making any statement, gesture, or other communication which would cause a reasonable person to be fearful or feel compelled; or,

6) Panhandling in a group of two (2) or more persons.

(f) Each act of panhandling prohibited by this section shall constitute a public nuisance and a separate violation of this Code. Each violation shall be punishable as provided in section §25.04, Code of Ordinances.

9.08 CONSUMPTION OF FERMENTED MALT BEVERAGES AND INTOXICATING LIQUOR ON PUBLIC PROPERTY AND PARKING LOTS PROHIBITED.

(1) DEFINITIONS.

(a) "Public property" means any property within the City, including buildings or structures thereon, which is owned, leased or operated by the City, Sauk County or the Baraboo School District; public sidewalks; roadways and streets; playgrounds; parks; and alleys.

(b) "Public parking lot" means parking lots owned by the City and the Baraboo School District.

(c) "Licensed premises" means the area within a building or structure which is licensed pursuant to Ch. 12 of this Code, but not including parking lots, sidewalks, roadways or land which is adjacent to the building or structure and within the property boundary lines.

(2) CONDUCT PROHIBITED. No person shall consume any fermented malt beverage or intoxicating liquor or possess an open container thereof in or upon any public property or public parking lot.

(3) CONDUCT PROHIBITED OUTSIDE LICENSED PREMISES. No person who has purchased fermented malt beverages or intoxicating liquor from any licensed premises shall consume or possess an open container of said beverages or liquor outside of, but within the property boundary lines of, such premises.

(4) EXCEPTIONS. (2512 3/12/2019)

(a) The prohibitions in subs. (2) and (3) above shall not apply to those events or activities that are otherwise permitted or licensed pursuant to Chs. 12 and 19 of this Code.

(b) The prohibitions in sub. (2), above shall not apply to the consumption of fermented malt beverages or wine in City parks, except as otherwise prohibited in Ch. 19 of this Code.

(c) The prohibitions in subs. (2) and (3) above shall not apply to those persons who transport unopened fermented malt beverages or intoxicating liquor from a point of purchase to their destination unless it is in violation of §346.93 or 125.09(2), Wis. Stats.

9.09 RESERVED. (2092 09/10/02; 2556 08/04/2020)

9.10 RESERVED. (2079 07/23/02; 2556 08/04/2020)

9.11 LITTERING PROHIBITED. No person shall deposit any mud, glass, refuse or waste, filth or other litter upon the streets, highways, alleys, parks or other property of the City or upon any private property or into or upon any body of water or stream within the City. (1526 11/22/88)

9.12 ENCUMBERING STREETS AND SIDEWALKS PROHIBITED. No person shall encumber the streets, sidewalks or alleys in the City with boxes, lumber, firewood or any other materials or substances in any manner what so ever, nor shall any person deposit any wastes, leaves or other debris on the streets, sidewalks or alleys of the City.

9.13 CAMPING PROHIBITIONS (1935 4/14/1998, 2209 09/27/2005)

(1) DEFINITIONS. As used in this Ordinance, the following terms have the following meaning:

(a) "Camp" and "Camping" means to occupy a recreational vehicle as temporary living quarters, or to occupy a tent or any temporary structure overnight as a living quarters.

(b) "Municipal Parking Lot" means any publicly owned parking area.

(c) "Recreational Vehicle" means a vehicular-type portable structure, without permanent foundation, which can be towed, hauled or driven over the road and which is primarily designed as a temporary living accommodation for recreational, camping and travel use, including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

(d) "Street" means any public right of way.

(e) "Front Yard" has the meaning as defined in §17.08(46), Ordinances.

(2) CAMPING ON STREETS, MUNICIPAL PARKING LOTS, AND FRONT YARDS PROHIBITED. No person shall camp on any street or in any municipal parking lot or permit any other person to camp upon their front yard within the City of Baraboo.

(3) PERSONS LIABLE. The following persons shall be liable for the penalty, provided that the City shall not collect more than one penalty for any single violation.

(a) Any person above the age eighteen years who is occupying the recreational vehicle or is camping at the time of violation;

(b) The driver who parked the recreational vehicle;

(c) Any person who owns or controls a front yard and gives permission to any person to camp thereon.

(4) EXCEPTION. Nothing in this ordinance shall be construed so as to prohibit playhouses or structures used primarily by children, or so as to prohibit camping by person under the age of thirteen years in a tent or other temporary structure located in a front yard for less than three consecutive nights.

(5) ENFORCEMENT. This Ordinance may be enforced by any police officer or community service officer.

9.14 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED. No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened 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.

9.15 ABANDONED OR UNATTENDED REFRIGERATORS, ETC., PROHIBITED. No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, 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 such door or lid, snap lock or other locking device from such icebox, refrigerator or container unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

9.16 CURFEW HOURS FOR MINORS. (1795 03/28/95)

(1) DEFINITIONS. In this section:

(a) "Curfew hours" means:

1. 10:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 A.M. of the following day; and
2. 11:00 P.M. on any Friday or Saturday until 5:00 A.M. of the following day.

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

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

(d) "Guardian" means:

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

(e) "Minor" means any person under 18 years of age.

(f) "Operator" means any individual, firm, association, partnership, company or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association, partnership or company and the officers of a corporation.

(g) "Parent" means a person who is:

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

(h) "Public place" means any area generally visible to public view and includes, but is not limited to, streets, tree banks, sidewalks, alleys, parks, vacant lots, driveways, parking lots and buildings open to the general public and the doorways, entrances and common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops and the grounds enclosing them and any other public place.

(i) "Remain" means to:

1. Linger or stay; or
2. Fail to leave a premises or establishment when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises or establishment.

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

(k) "Loiter" means to congregate, linger, wander, stand, delay, walk or stroll about aimlessly, or to remain idle in essentially one location in a manner and under circumstances manifesting an unnecessary or aimless purpose.

(2) OFFENSES.

(a) No minor shall loiter, idle, remain or be present in any public place or on the premises of any establishment within the City during curfew hours.

(b) No parent or guardian of a minor shall knowingly permit, or by insufficient control allow, the minor to loiter, idle, remain or be present in any public place or on the premises of any establishment within the City curfew hours.

(c) No owner, operator, or any employee of an establishment shall knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

(3) DEFENSES.

(a) This section shall not apply where the minor was:

1. Accompanied by the minor's parent or guardian;
2. On an errand at the direction of the minor's parent or guardian without any detour or stop;
3. In a motor vehicle involved in interstate travel;
4 Engaged in an employment activity or going to or returning home from an employment activity, without any detour or stop;
5. Involved in an emergency;
6. On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;
7. Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City of Baraboo, the Baraboo School District, a church or religious entity, a civic organization, or other similar entity that takes responsibility for the minor, or going to or returning from,

without any detour or stop, an official school, religious or other recreational activity supervised by an adult and sponsored by the Baraboo School District, the City of Baraboo, a church or religious entity, a civic organization, or other similar entity that takes responsibility for the minor;

8. Exercising First Amendment rights protected by the United States Constitution or the Wisconsin Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
9. Married.
10. This section shall not apply to the owner, operator or employee of an establishment that promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(4) ENFORCEMENT ACTION. Before taking any enforcement action under this section, a law enforcement officer shall ask the apparent offenders age and reason for being present in the public place. A law enforcement officer shall not issue a citation or make an arrest under this section unless the officer reason-ably believes that an offense has occurred and that, based upon any response and other circumstances, no defense in Subs. 3 is present. A minor believed to be violating the provisions of this section may be taken to the police department for proper identification. Every law enforcement officer, while on duty, may, in his/her discretion detain any minor violating Subs. (2) above until such time as the parent, guardian or other adult person having legal custody of the minor is notified and the person so notified shall, as soon as reasonably possible thereafter, report to the police department for the purpose of taking the minor into custody and such person shall sign a release for the minor if so requested by the officer.

(5) PENALTY. Any person who shall violate any provision of this section shall, upon conviction, be subject to a penalty as provided in §25.04 of this Code.

(6) SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction such portion(s) shall be deemed a separate, distinct and independent provision and such holdings shall not affect the validity of the remaining portion(s) thereof."

9.16A TRUANCY (2404 11/26/2013) (2459 07/11/2017)

(1) DEFINITIONS. As used in this section, the following terms shall have the meanings indicated:
- (a) "Acceptable Excuse" has the meaning ascribed to it in under §§118.15 and/or 118.16 (4), Wis. Stats.
- (b) "Truant" means a pupil who is absent from school without an acceptable excuse under for part or all of any day on which school is held during a school semester.

(2) PROHIBITED ACTS. It shall be a violation of this section for a pupil to be truant. Any pupil violating this section shall be subject to one or more of the penalties provided in subsection (3) below.

(3) TRUANCY PENALTIES. For a pupil under the age of eighteen (18) who is found to be truant, all dispositions listed in §§118.163(1m)(a)-(c),938.342(1d)(a)-(c), and 938.342(1m)(am) shall be available to the court by written court order.

9.16B HABITUAL TRUANCY (2459 07/11/2017)

(1) DEFINITIONS. As used in this section, the following terms shall have the meanings indicated:
- (a) "Acceptable Excuse" has the meaning ascribed to it in under §§118.15 and/or 118.16(4), Wis. Stats.
- (b) "Habitual Truant" means a pupil who is absent from school without an acceptable excuse for part or all of five (5) or more days on which school is held during a school semester.

(2) PROHIBITED ACTS. It shall be a violation of this section for a pupil to be a habitual truant. Any pupil violating this section shall be subject to one or more of the penalties provided in subsection (3) below.

(3) HABITUAL TRUANCY PENALTIES. For a pupil under the age of eighteen (18) who is found to be a habitual truant, all dispositions listed in §§118.163(2)(a)-(l), 938.342(1g)(a)-(k), and 938.342(1m)(a), Wis. Stats., shall be available to the court by written court order.

9.17 VEHICLE REPAIRS AND MAINTENANCE IN RIGHT-OF-WAY PROHIBITED. (2049 02/13/2001, 2210 09/27/2005)

(1) No person shall perform vehicle repairs or maintenance within the public rights-of-way or public parking lots.

(2) This Ordinance shall not apply in the following circumstances:
   (a) Necessary repairs, maintenance or clean-up incident to a vehicular accident.
   (b) Repairs or maintenance to a stalled vehicle.

9.17A REGULATION OF TREE BANK PLANTINGS (2245 01/09/2007)

(1) DEFINITION: The "Tree Bank," for purposes of this section, is defined as that area of the public right of way not used for streets or for sidewalks.

(2) REGULATIONS. Property owners are permitted to plant herbaceous vegetation within the tree banks adjacent to their own property within the guidelines and rules as set forth herein. The planting of woody vegetation without the express permission of the City Forester is strictly prohibited.
   (a) No herbaceous vegetation in the tree bank, other than traditional lawn grasses, shall be allowed to grow taller than its distance from a paved surface, whether a road, sidewalk, or driveway. How-ever, all plants shall be allowed to a height of six inches, regardless of distance to a paved surface.
   (b) No tree bank planting in excess of six inches in height shall be allowed within three feet of a fire hydrant.
   (c) No plant of the genus *Hosta* shall be allowed to grow in excess of twelve inches in height, excluding the height of the flowing stalk.
   (d) No plant posing a tripping hazard, such as vines, shall be allowed within the tree bank.
   (e) Within fifteen feet of a street corner, no herbaceous vegetation shall be allowed to grow in excess of 24 inches in height. All restrictions of Code §17.39, Vision Triangles, fully apply to herbaceous vegetation planted along streets.
   (f) Within ten feet of the intersection of driveways with sidewalks and streets, no herbaceous vegetation shall be allowed to grow in excess of 24 inches in height. All restrictions of Code §17.39, Vision Triangles, fully apply to herbaceous vegetation planted along streets.
   (g) Persons planting within the treebank are advised that plantings may be disturbed or destroyed as a result of sidewalk maintenance/ replacement, excavations for underground services, tree pruning/ removal, sign placement, normal pedestrian activities, activities related to parking and special events, and other reasons, without recourse to the City or the person damaging the vegetation.

9.18 RESERVED. (2556 08/04/2020)

9.19 DEPOSIT OF NON-CITY GARBAGE RESTRICTED.

(1) INTENT. In recent years the cost of collecting and disposing of garbage has increased significantly in the City and also in areas surrounding the City. This cost increase has caused persons residing outside the City to bring and deposit their garbage in the City thereby transferring the cost of collecting and disposing of such garbage to taxpayers of the City. These activities often take place after dark thereby making it difficult to apprehend such persons.

(2) DEFINITIONS. For the purposes of this section, the terms used shall be defined as follows:
   (a) "Garbage" means any refuse, rubbish, waste, trash or any other discarded material.
   (b) "Deposit" means to throw down, place, bury, leave, put or dispose of.
   (c) "Transport" means to carry or convey from one place to another.
   (d) "Recyclable Material" means any glass, plastic, metal, paper and cardboard materials that are reusable and that are separated from other garbage.

(3) DEPOSITING OF NON-CITY GARBAGE PROHIBITED. (See Ord. 1399 for Intent.)
   (a) It shall be unlawful for any person to deposit any garbage accumulated outside the City in or upon any public or private place, including trash receptacles, within the City.
   (b) It shall be unlawful for any persons to transport within the City any garbage accumulated outside of the City for the purpose of depositing the garbage in or upon any public or private place, including trash receptacles, within the City.
   (c) It shall be unlawful for any person who resides or has a place of business within the City to allow any person to deposit any garbage accumulated outside of the City in or upon any public or private place, including trash receptacles, within the City.

(4) EXCEPTIONS. This section shall not apply to any person who is transporting recyclable materials to or depositing recyclable materials with a designated collection site for such materials within the City nor to any person transporting garbage to or depositing garbage with a properly licensed transfer station within the City.

(5) PENALTY. Any person violating any provision of this section shall, upon conviction thereof, be subject to a forfeiture of not more than $500 for each such offense.

9.20 USE OF MOTORIZED VEHICLES ON UNIVERSITY OF WISCONSIN CENTER CAMPUS REGULATED.

(1) OPERATION OF VEHICLES ON U.W. CENTER LANDS PROHIBITED. No person shall operate any motor vehicle, trail bike, motorcycle, moped, motor-driven bicycle, motor-driven cycle, mini-bike, go-cart, all-terrain vehicle, motor-driven sled, motor-driven toboggan, snowmobile, or any other motorized vehicle on the lands of the University of Wisconsin Center, Baraboo-Sauk County Campus.

(2) EXCEPTION. This section shall not apply to the operation of motorized vehicles on designated paved roadways, parking lots, or roadways leading thereto if the operation of the motorized vehicle is otherwise allowed by law.

(3) JOINT ORDINANCE WITH SAUK COUNTY ORDINANCES. The City and Sauk County are the co-owners of the University of Wisconsin Center-Sauk County Campus and this Ordinance is similar to an Ordinance adopted by Sauk County. Either this Ordinance or the Sauk County Ordinance may be enforced against a violator.

9.21 SMOKING, VAPING, NICOTINE AND TOBACCO USE REGULATED. (1665 11/92 See §134.65 Wis. Stats.; 2428, 02/24/2015; 2551, 07/14/2020)

(1) STATE SMOKING BAN ADOPTED. The City hereby adopts by reference the provisions of §101.123, Wis. Stats., "Smoking prohibited," pertaining to the statewide smoking ban.

(2) VAPING PROHIBITED. Vaping is prohibited in all areas located within the City limits where smoking is prohibited by the provisions of §101.123, Wis. Stats.

(3) ADDITIONAL LOCAL PROHIBITIONS.
- (a) There shall be no smoking, vaping or use of any tobacco-containing product upon the property of or in any building or structure of the University of Wisconsin Baraboo/Sauk County.
- (b) There shall be no smoking, vaping or use of any tobacco-containing product in any City owned or leased building, including in an entrance to a City owned or leased building.
- (c) Regulations for children under the age of 18:
  - i. No child may do any of the following:
    - (a) Buy or attempt to buy any cigarette, electronic delivery device, tobacco product or nicotine product.
    - (b) Falsely represent his or her age for the purpose of receiving any cigarette, electronic delivery device, tobacco product or nicotine product.
    - (c) Possess any cigarette, electronic delivery device, tobacco product or nicotine product.
  - ii. A child may purchase or possess cigarettes, electronic delivery devices, tobacco products, or nicotine products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under §134.65(1) Wis. Stats.
  - iii. A law enforcement officer shall seize any cigarette, electronic delivery device, tobacco product, or nicotine product involved in any violation of this section committed in his or her presence. (1665 11/92) Seized items shall be held or disposed of per the current policy of the police department.
  - iv. No person may procure for, sell, dispense, furnish or give away any cigarette, electronic delivery device, tobacco products or nicotine product to a child. (1796 03/28/95)
- (d) See also §19.93(12), of this Code.

(4) DEFINITIONS.
- (a) The following definitions shall apply to this Section instead of the definitions found in §101.123, Wis. Stat.:
  - i. "Enclosed place" means 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. An 0.011 gauge screen with an 18 by 16 mesh count is not a wall.
  - ii. "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant

product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

(b) The following definitions shall apply to this Section in addition to the definitions found in §101.123, Wis. Stat.:

i. "Electronic delivery device" means any product containing, delivering or capable of containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of aerosol, mist, or vapor from the product. The term includes, but is not limited to, devices manufactured, distributed, marketed, or sold as electronic cigarettes or cigars, electronic pipes, personal vaporizers, electronic nicotine delivery systems, vape pens, and electronic hookahs.

ii. "Vaping" means the use of an electronic delivery device.

(5) INSPECTION AND ENFORCEMENT. The Police Department shall have the power to enter any premises subject to the smoking ban under state law to ascertain whether the premises are in compliance with this section and take appropriate enforcement action pursuant to this section.

9.22 OBSTRUCTING OFFICER PROHIBITED. (1797 03/28/1995)

(1) DEFINITIONS. In this section:

(a) "Obstructs" includes, without limitation, knowingly giving false information to the officer, or knowing-ly placing physical evidence with intent to mislead the officer in the performance of his or her duty including the service of any summons or civil process, or fleeing or hiding from the officer, or conduct that prevents or makes more difficult the performance of the officer's duties. (1969 04/21/99)

(b) "Officer" means a peace officer, law enforcement officer, or other public officer or public employee having the authority by virtue of his or her office or employment to take another into custody.

(2) OBSTRUCTING PROHIBITED. No person shall knowingly obstruct an officer while such officer is doing any act in an official capacity and with lawful authority.

9.23 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED. (1798 03/28/95)

(1) DEFINITIONS.

(a) The definition of "drug paraphernalia" stated in §961.571, Wis. Stats., is hereby adopted by reference.

(b) The definition of "controlled substance" as stated in Chapter 961 of the Wisconsin Statutes, is hereby adopted by reference.

(2) POSSESSION OF DRUG PARAPHERNALIA PROHIBITED. 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.

9.24 CURRENT MEMBERSHIP AND AGE REQUIREMENTS FOR USE OF CIVIC CENTER WEIGHT LIFTING AND FITNESS ROOMS. (1894 01/28/97)

(1) No person shall use any free weights or any strength and fitness equipment located in the Civic Center Weight Lifting and Fitness Rooms 1 and 2, unless that person has paid the current member-ship fee for use of said free weights and equipment.

(2) No child under the age of 14 years shall be eligible for membership for use of the Civic Center Weight Lifting and Fitness Rooms 1 and 2, nor shall any child under the age of 14 enter or be present in the Civic Center Weight Lifting or Fitness Rooms 1 and 2 for any purpose.

(3) No parent, guardian or person in charge of a child under the age of 14 shall knowingly permit or allow said child to enter or be present in the Civic Center Weight Lifting and Fitness Rooms 1 and 2 for any purpose.

(4) Any person who shall violate any provision of this section shall be subject to a penalty as provided in §25.04 of this Code.

9.25 UNLAWFUL TRESPASS (2063 08/01/2001, 2262 06/26/2007)

(1) DEFINITION: For purposes of this ordinance, "implied consent" means conduct or words or both that imply that an owner or lawful occupant of land has given consent to another person to enter the land.

(2) TRESPASS TO PROPERTY.

(a) No person shall enter upon the property of another without the permission or implied consent of the owner or of a person lawfully upon the property.

(b) No person shall remain on any property of another after having been notified by the owner or lawful occupant not to or remain on such premises.

(c) No person shall intentionally enter the unlocked and enclosed portion or compartment of a vehicle of another without the consent of the owner or other person having lawful possession. (2290 11/11/2008)

(3) TRESPASS TO DWELLING. No person shall intentionally enter the dwelling of another without the per-mission or implied consent of the owner or of a person lawfully upon the premises.

(4) TRESPASS TO BUILDING OR STRUCTURE. No person shall intentionally enter a building or structure without the permission or implied consent of the owner or person in lawful possession thereof.

(5) TRESPASS TO COMMERCIAL PROPERTY. No person shall enter or remain on a commercial or business property otherwise open to the public during business hours, at times and under such conditions when it may be reasonably ascertained that such business or commercial enterprise is not open to the public for the conduct of business, and the one who enters or remains has no reasonable basis to believe that he has express or implied consent of the owner or occupant to enter or remain on the property.

(6) CONSIDERATION OF EXISTING CIRCUMSTANCES. In determining whether a person has implied consent to enter the land of another, a trier of fact shall consider all of the circumstances existing at the time the person entered the land, including all of the following:

(a) Whether the owner or occupant acquiesced to previous entries by the person or by other persons under similar circumstances.

(b) The customary use, if any, of the land by other persons.

(c) Whether the owner or occupant represented to the public that the land may be entered for particular purposes.

(d) The general arrangement or design of any improvements or structures on the land.

(e) Whether the person has been notified personally, either orally or in writing, or if the land is posted. Lack of posting shall not in itself infer implied consent. Land is considered to be posted under this subsection under either of the following procedures:

1. Posting a "No Trespassing" sign at the entrances or other conspicuous locations of a building, premises or property. The "No Trespassing" sign shall be at least 8 inches by 11 inches in size and shall state the following:

"NO TRESPASSING. The City of Baraboo Municipal Code of Ordinances makes it unlawful for any person to enter or remain on any property of another or to enter or remain in any building of another after having been notified by the owner or occupant not to enter or remain on such premises. Any violator is subject to a forfeiture of not less than $60 nor more than $300, plus assessments and costs. Baraboo police officers are authorized to arrest any person violating this provision without any additional warning or notice to you. If you are NOT a resident or NOT here on official business with the owner or the owner's agent or a resident, leave the premises immediately."

2. If markings at least one foot long, including in a contrasting color the phrase "private land" and the name of the owner, are made in at least two conspicuous places for every parcel to be protected.

(7) CONSENT BY OWNER FOR SPECIFIC PURPOSE. An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of this section for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions.

(8) LAWFUL LABOR DISPUTES EXEMPT. This section does not prohibit any person from participating in lawful conduct in labor disputes under §103.53, Wis. Stats.

9.26 <u>ENFORCEMENT OF CITY ORDINANCES ON SAUK COUNTY OWNED PROPERTY.</u> (1878 08/13/96)

(1) The offenses described in the following sections of Ch. 7 and Ch. 9 of the Municipal Code of Baraboo shall apply to all the buildings, grounds and sidewalks owned by Sauk County within the City of Baraboo, and shall be enforceable against any person in the same manner and to the same extent as if such violation occurred on a public sidewalk within the City:

Chapter 7 Violations:

(a) A violation of §7.14 regulating the operation of bicycles.

(b) A violation of §7.17 regulating roller skates, skateboards, in-line skates, scooters and similar play vehicles.

Chapter 9 Violations:

(a) A violation of the offenses defined in §9.01.

(b) A violation of §9.02 regulating the possession and use of firearms and other dangerous weapons.

(c) A violation of §9.03 regulating the throwing or shooting of arrows, stones and other missiles.

(d) A violation of §9.04 regulating the possession and use of marijuana.

(e) A violation of §9.05 regulating the sale and use of fireworks.

(f) A violation of §9.06 regulating loud and unnecessary noise.

(g) A violation of §9.07 regulating loitering.

(h) A violation of §9.08 regulating the consumption and possession of permitted malt beverages and intoxicating liquors.

(i) A violation of §9.09 regulating animals and poultry and animal waste.

(j) A violation of §9.11 regulating littering.

(k) A violation of §9.12 regulating the encumbering of streets and sidewalks.

(l) A violation of §9.13 regulating burning.

(m) A violation of §9.16 regulating curfew hours for minors.

(n) A violation of §9.17 regulating accidental spills of hazardous or detrimental substances.

(o) A violation of §9.18 regulating the worrying of parade animals.

(p) A violation of §9.21 regulating the use and possession of tobacco products.

(q) A violation of §9.22 regulating the obstruction of officers.

(r) A violation of §9.23 regulating the possession of drug paraphernalia.

9.27 UNIFORM CITATION METHOD ADOPTED.

(1) CREATION. Pursuant to §66.0119, Wis. Stats., the City hereby elects to use the citation method of enforcement of ordinances, including ordinances for which a statutory counterpart exists.

(2) CITATION. The citation shall contain the following:

(a) The name and address of the alleged violator.

(b) Factual allegations describing the alleged violation.

(a) The time and place of the offense.

(b) The section of the ordinance or Municipal Code violated.

(e) A designation of the offense in such manner as can be readily understood by a person making a reasonable effort to do so.

(f) The time at which the alleged violator may appear in court.

(g) A statement which in essence provides the information to the alleged violator required by §66.0119, Wis. Stats. (1842 11/28/95)

1. A cash deposit of a specified amount may be made which shall be delivered or mailed to the Sauk County Clerk of Courts within the time specified.
2. If such a deposit is made, the alleged violator need not appear in court unless he/she is subsequently summoned.
3. If a cash deposit is made and the alleged violator does not appear in court, he/she will be deemed to have tendered a plea of no contest and submitted to a forfeiture and a penalty assessment imposed by §165.87, Wis. Stats., not to exceed the amount of the deposit or, if the court does not accept the plea of no contest, a summons will be issued demanding him to appear in court to answer the complaint.
4. If no cash deposit is made and the defendant does not appear in Court at the time specified, the Court may issue a warrant for the defendant's arrest or consider the nonappearance of the defendant to be a plea of no contest and enter judgment accordingly and that the judgment may impose a jail sentence or suspend the defendant's driver's license if the defendant fails to pay the fine

within the time period allowed by the Court. (1666 11/92)

(h) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that the statement required under par. (g), above has been read. Such statement shall be sent or brought with the cash receipt.

(i) Such other information as the Council deems necessary.

(3) DEPOSITS. (1842 11/28/95)

(a) Each citation issued under this section shall specify a cash deposit as provided in sub.(4), which consists of the appropriate forfeiture, assessments and costs as provided in §25.04 of the Code.

(b) Deposits shall be made in cash, money order or check to the Sauk County Clerk of Court who shall provide a receipt therefore.

(4) DEPOSIT SCHEDULE. Every police officer issuing a citation for any violation of this Code shall indicate on the citation the amount of the deposit that the alleged violator may make in lieu of court appearance. The amount of the deposit shall be determined in accordance with the City of Baraboo Bond Schedule as provided in Ch. 25 of this Code. (1842 11/28/95)

(5) ISSUANCE OF CITATION. City law enforcement officers may issue citations authorized under this section.

(6) PROCEDURE. §66.0119, Wis. Stats., relating to a violator's options and procedure on default, is hereby adopted and incorporated herein by reference. (1539 06/89)

(7) NONEXCLUSIVITY.

(a) Other Ordinances. Adoption of this section does not preclude the Council from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) Other Remedies. The issuance of a citation hereunder shall not preclude the City or any authorized officer from proceeding under any other ordinance or law or by any other enforcement method to enforce any ordinance, regulation or order.

9.28 PENALTY. Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in §25.04 of this Code. In addition to any penalty imposed for violation of §9.943.01(1) of this chapter, any person who shall cause physical damage to or destroy any public or private property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any un-emancipated minor child who violates §9.943.01(1) may also be held liable for the cost of repairing or replacing such damaged or destroyed property in accordance with the provisions of §895.035, Wis. Stats.

9.29 SEXTING PROHIBITED. (2471 10/24/17)

(1) INTENT. The Common Council of the City of Baraboo has determined that sending and forwarding sexually explicit images, photographs, videos and messages between minors and that are harmful to minors, commonly referred to as "sexting", represents a concern for the health, safety, welfare, peace and order to citizens of the City of Baraboo. The Council has further determined that prohibiting the sending and forwarding of sexually explicit images, photographs, videos and messages between minors that are harmful to minors will serve to deter such activities within the city.

(2) DEFINITIONS.

(a) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a noticeably erect state. A mother's breastfeeding of a baby does not under any circumstances constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(b) "Harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors and, taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(c) "Minor" means any person under the age of 18 years.

(3) PROHIBITED CONDUCT. A minor commits the offense of sexting if he or she knowingly:

(a) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any photograph or video of any person which depicts nudity, as defined above, and is harmful to minors, as defined above.

(b) Possesses a photograph or video of any person that was transmitted or

distributed by another minor which depicts nudity, as defined above, and is harmful to minors, as defined above. A minor does not violate this paragraph if all of the following apply:

i. The minor did not solicit the image or video;

ii. The minor took reasonable steps to report the photograph or video to a school or law enforcement official; and

iii. The minor did not transmit or distribute the photograph or a video to a third party other than to a school or law enforcement official, or to the minor's parent or legal guardian in an effort to take the reasonable steps described in b, above.

(c) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any text, correspondence, or message of a sexual nature when it is clearly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and taken as a whole, is without serious literary, artistic, political, or scientific value for minors(d) Solicits the transmission or distribution of any image, photograph, video or message from another minor that would itself be prohibited under this section of the Municipal Code.

9.30 **PUBLIC URINATION AND DEFECATION PROHIBITED**.(2490 04/24/2018) It is unlawful for any person to urinate or defecate outside of designated sanitary facilities, upon any sidewalk, street, alley, public parking lot, 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 commercial buildings, or to expose his/her genitalia in such a way as to appear to urinate or defecate in any prohibited location herein described.

9.31 GUN SHOP SURVEILLANCE SYSTEM REQUIREMENT. (2533 10/08/2019)

(1). PURPOSE. The Common Council recognizes the limitations placed on municipalities regarding the regulation of the sale of firearms, while also recognizing these limitations do not preclude a municipality from having a requirement that gun stores, as defined in this section, have and maintain a viable video surveillance system. The Common Council further finds that there are many benefits to requiring gun shops having a viable video surveillance system including, but not limited to, enhancing the safety of its citizenry by deterring crime and assisting with police investigations.

(1) DEFINITIONS As used in this section, the following words and phrases shall have the following meanings:

(4) VIOLATIONS. Any person who violates this section shall, upon conviction of such violation(s), be subject to a penalty pursuant to §25.04, Penalty Provisions, of the City of Baraboo Municipal Code.

.

(a) "Firearm" has the meaning assigned to it by §167.31(1)(c), Wis. Stat.

(b) "Gun shop" or "shop" means a person, firm, corporation, or other legal entity that engages in the retail or wholesale business of selling, leasing, or otherwise transferring firearms and/or the retail business of repairing, manufacturing or modifying firearms.

(c) "Person" has the meaning assigned to it by §25.01(3), City Code.

(3) SURVEILLANCE SYSTEM REQUIRED.

(a) A Person who owns or operates a gun shop with one or more permanent physical locations within the City of Baraboo and which is open to the public shall equip said location (s) with a video surveillance system sufficient to monitor the critical areas of the location(s) including, but not limited to, all places where firearms are stored, handled, sold, transferred, or carried.

(b) The video surveillance system shall operate without interruption whenever the location(s) are open to the public. Whenever the location(s) are not open to the public, the system shall be triggered by a motion detector and begin recording immediately upon detection of any motion within the monitored area.

(c) The stored images shall be maintained by the gun shop for a period of not less than 90 days from the date of recording.