

TITLE 11

OFFENSES AND NUISANCES

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CHAPTER 1

State Statutes Adopted

11-1-1 Offenses Against State Laws Subject to Forfeiture
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SEC. 11-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Town of Fond du Lac. With the exception of Sec. 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code. The penalty for truancy and high school dropouts shall be governed by the provisions of Sec. 938.342, Wis. Stats., as adopted herein.

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SEC. 11-1-2 PENALTIES; ATTEMPT; PARTIES TO ACTS.

- a) **Penalty.** In addition to the general penalty provisions of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Title, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated juvenile who violates Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.
- b) **Attempt.**
- 1) Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the Town may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
 - 2) An attempt to commit an act prohibited by the ordinances in Title 11 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he/she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he/she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- c) **Parties to Acts Prohibited in Title 11.**
- 1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances, is a principle and may be charged with and convicted of the commission of said act although he/she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
 - 2) A person is concerned in the commission of an act prohibited by these ordinances if he/she:
 - a. Directly commits the act; or
 - b. Intentionally aids and abets the commission of it; or
 - c. Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable

consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

CHAPTER 2

Offenses Against Public Safety and Peace

11-2-1	Discharge of Firearms
11-2-2	Sale and Discharge of Fireworks Restricted
11-2-3	Loitering Prohibited
11-2-4	Disorderly Conduct
11-2-5	Obscenity
11-2-6	Reserved for Future Use

SEC. 11-2-1 DISCHARGE OF FIREARMS.

Applicable state statutes shall be followed regarding the discharge of firearms in the Town.

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

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

SEC. 11-2-3 LOITERING PROHIBITED.

a) **General Regulation of 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 law enforcement officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her to identify himself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

b) Public Property Loitering Prohibited.

- 1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.
- 2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

c) **Private Property Loitering Prohibited.**

- 1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places.
- 2) Upon being requested to move by any such person in authority or by any law enforcement officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

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

e) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**

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

f) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- 1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
- 2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public Street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Town.
- 3) Prowl. To move or roam about furtively, particularly on the property of another person.

SEC. 11-2-4 DISORDERLY CONDUCT.

- a) **Disorderly Conduct Prohibited.** No person within the Town 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.
- 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 Town, 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/her person.

SEC. 11-2-5 OBSCENITY.

- a) **Distribution of Obscene Material Prohibited.** It shall be unlawful for any person to send or cause to be sent, bring or cause to be brought into the Town, for sale or distribution, or for any person in the Town to prepare, publish, print, exhibit, distribute or offer to distribute, or have in his possession with intent to distribute or to exhibit or offer to distribute, any material that such person knows to be “obscene” as hereinafter defined.
- b) **Definitions.**
 - 1) The word “obscene” shall apply to any work or material that depicts or describes acts of: sexual intercourse between humans, normal or perverted, actual or simulated; acts of masturbation; fellatio; cunnilingus; acts of a sexually stimulated condition; and sexual relations between humans and animals, any of which taken as a whole by the average person applying contemporary community standards would be found to:
 - a. Appeal to the prurient interest in sex; and
 - b. Portray sexual conduct in a patently offensive way; and which, taken as a whole by the average person applying contemporary national standards, would be found not to have serious literary, artistic, political or scientific value.
 - 2) The word “material” or “work” shall mean any book, magazine, newspaper, or other printed or written material, or any picture, drawing, photograph, motion picture, video tape, or other pictorial representation.
 - 3) The word “person” shall mean any individual, partnership, firm, association, corporation or other legal entity.

- 4) The word “distribute” shall mean any transfer or possession with intent to transfer, whether with or without consideration.
- 5) The word “know” shall mean being aware, or having reason to be aware, of the nature of the materials alleged to be obscene.

SEC. 11-2-6 RESERVED FOR FUTURE USE.

CHAPTER 3

Offenses Against Property

11-3-1	Destruction of Property Prohibited
11-3-2	Littering Prohibited
11-3-3	Abandoned Refrigerators Prohibited
11-3-4	Trespass
11-3-5	Damage to Public Property
11-3-6	Cemetery Regulations
11-3-7	Penalties

SEC. 11-3-1 DESTRUCTION OF PROPERTY PROHIBITED.

- a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Town and belonging to the Town or its departments, or to any private person, without the consent of the owner or proper authority.
- b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00).

SEC. 11-3-2 LITTERING PROHIBITED.

- a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks, public right-of-ways, or other property of the Town, or upon any private person or the surface of any body of water within the Town.
- b) **Litter From Conduct of Commercial Enterprise.**
 - 1) Scope. The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
 - 2) Cleanup of Litter. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twenty-four (24) hours of the time the same is deposited or immediately if such litter or debris presents a traffic or safety hazard. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
 - 3) Litter Picked Up at Litterer's Expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the Town shall arrange to have the same picked up by Town crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with and additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is

not promptly paid, steps shall be taken, with the advice of the Town Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

- c) **Dumping of Refuse and Grass Along Roads.** Except for temporary placement up to six (6) hours, no person shall deposit any refuse, leaves or grass clippings in any gutter along any public street, road, alley, public right-of-way or highway.
- d) **Depositing of Materials Prohibited.** Except as provided in Subsection (c), it shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Town Board, or its designee, pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.
- e) **Handbills.**
 - 1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the Town except by being handed to the recipient, placed on the porch, stoop or entrance way of the building, placed in newspaper boxes, or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
 - 2) Papers in Public Places Prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any Street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.
 - 3) Advertisements Upon Public or Private Property. No person shall place any advertisement upon any public property or any street, alley or public ground or upon any private property situated and fixed in any street, alley or public ground or upon any other private property, except by the permission of the owner thereof, but this Section shall not apply to the posting of notices required by law.

SEC. 11-3-3 ABANDONED REFRIGERATORS PROHIBITED.

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

SEC. 11-3-4 TRESPASS.

- a) **Purpose.** This Section is created for the purposes of securing to the residents of the Town their rights to enjoyment and use of land and property by providing an efficient and orderly method of enforcement of such rights. This ordinance is enacted under the authority of sections of the Wisconsin Statutes and acts amendatory thereto.

- b) **Short Title.** This Section may be referred to and cited as the Town of Fond du Lac Trespass Ordinance.
- c) **Violations.** It shall be unlawful and a violation of this Section for any person to commit any of the following acts:
 - 1) Enter upon any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any such activities.
 - 2) To enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.
 - 3) To hunt, shoot, fish, or gather any product of the soil on the premises of another, or enter said premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.
 - 4) To enter upon any enclosed or cultivated land or another with a vehicle of any kind without the express or implied consent of the owner or occupant.
 - 5) To erect upon the land of another any sign which is the same as or similar to the type of sign described in Subsection (d), unless authorized to do so by the owner of the lands involved.
- d) **Posting of Lands.** For lands to be posted against entry by another under this Section, a sign at least eleven (11) inches square must be placed in at least two (2) conspicuous places for every forty (40) acres sought to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word “owner” if the person giving the notice is the holder of legal title to the land and by the word “occupant” if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within six (6) months prior to the event complained of shall be prima facie proof that the premises to be protected were posted as herein provided.
- e) **How Entry Denied.** A person has received notice from the owner or occupant within the meaning of this Section if he has been notified personally, either orally or in writing, or if the land is posted.
- f) **Failure to Post.** The failure of any person or occupant to post his or her lands shall not be deemed to constitute consent of such owner or occupant to any uninvited entry by another. Any entry by a person other than the lawful owner or lawful occupant of land or building shall constitute a violation of this ordinance if such entry is made under circumstances tending to create or provoke breach of the peace.

SEC. 11-3-5 DAMAGE TO PUBLIC PROPERTY.

- a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge,

structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Town.

- b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the Town.

SEC. 11-3-6 CEMETERY REGULATIONS.

- a) **Purpose and Definition.** In order to protect cemetery areas within the Town from injury, damage or desecration, these regulations are enacted. The term “cemetery” as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the Town.
- b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.
- c) **Specific Regulations.**
 - 1) Disturbing Cemetery Property. No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property, except the owner of the cemetery lot or a person with the cemetery lot owner’s consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner’s consent.
 - 2) Protection of Cemetery Property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery.
 - 3) Motor Vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner’s consent.
 - 4) Speed Limit. No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.

- 5) Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
- 6) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.
- 7) Pets Prohibited. Pets, including animals of any species, are prohibited in any cemetery without the cemetery owner's consent.
- 8) Sound Devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
- 9) Authorized Notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except under these regulations. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- 10) Loitering Prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.
- 11) Alcoholic Beverages Prohibited. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Town unless the property is specifically named as being part of a licensed premises.
- 12) Play Vehicles Prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle, or toy vehicle upon which a person may ride.
- 13) Presence After Hours Prohibited. No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

SEC. 11-3-7 PENALTIES.

In addition to the general penalty of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent law enforcement officers from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

CHAPTER 4

Offenses Involving Alcoholic Beverages

11-4-1	Sale to Underage or Intoxicated Persons Restricted
11-4-2	Underage Persons' Presence in Places of Sale; Penalty
11-4-3	Underage Persons; Prohibitions; Penalties
11-4-4	Defense of Sellers
11-4-5	Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards
11-4-6	Possession of Alcohol Beverages on School Grounds
11-4-7	Adult Permitting or Encouraging Underage Violation
11-4-8	Solicitation of Drinks Prohibited

SEC. 11-4-1 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

a) Sales of Alcohol Beverages to Underage Persons.

- 1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
- 2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

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

- 1) Not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or
- 2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.
- 3) In addition to the forfeitures provided in Subsections (1) and (2) above, a court shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Sec. 125.07(1)(b)3, Wis. Stats.

c) Sale of Alcohol Beverages to Intoxicated Persons.

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

- d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

SEC. 11-4-2 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE; PENALTY.

- a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:
- 1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
 - 2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
 - 3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality.
 - 4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
 - 5) Ski chalets, golf clubhouses and private tennis clubs.
 - 6) Premises operated under both a Class "B" alcoholic beverage or "Class B" fermented malt beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" alcoholic beverage or "Class B" fermented malt beverage license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
 - 7) An underage person who enters or remains on a Class "B" alcoholic beverage or "Class B" fermented malt beverage premises for the purpose of transacting business at an auction or market as defined in Sec. 125.07(3)(7), Wis. Stats., if the person does not enter or remain in a room where alcohol beverages are sold or furnished.
 - 8) An underage person who enters or remains in a room on Class "B" alcoholic beverage or "Class B" fermented malt beverage licensed premises separate from any room where alcohol beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. An underage person may enter and remain on Class "B" alcoholic beverage or "Class B" fermented malt beverage premises under this Subsection only if the municipality which issued the Class "B" alcoholic beverage or "Class B" fermented malt beverage license adopts an ordinance permitting underage

persons to enter and remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the Class “B” alcoholic beverage or “Class B” fermented malt beverage licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

- b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

SEC. 11-4-3 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

- a) Any underage person who does any of the following is guilty of a violation:
- 1) Procures or attempts to procure alcohol beverages.
 - 2) Knowingly possesses or consumes intoxicating liquor.
 - 3) Enters or is on licensed premises in violation of Section 11-4-2(a).
 - 4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.
- c) Any person violating Subsections (a) or (b) is subject to the following penalties:
- 1) For a first violation, a forfeiture of not more than Fifty Dollars (\$50.00), suspension of the person’s operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - 2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred Dollars (\$100.00), suspension of the person’s operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - 3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty Dollars (\$150.00), revocation of the person’s operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Town Board. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated

community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.

- 2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.
- e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.
- f) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.
- g) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

SEC. 11-4-4 DEFENSE OF SELLERS.

- a) **Defenses.** Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
 - 1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.
 - 2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
 - 3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
- b) **Book Kept by Licensees and Permittees.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this Subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

**SEC. 11-4-5 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE;
FALSE OR ALTERED IDENTIFICATION CARDS.**

- a)
- 1) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.08, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned not less than ten (10) days nor more than thirty (30) days or both.
 - 2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not more than ten (10) days or both.
- b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-3(c) or (d):
- 1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
 - 2) Makes, alters or duplicates an official identification card.
 - 3) Presents false information to an issuing officer in applying for an official identification card.

**SEC. 11-4-6 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS
PROHIBITED.**

- a) In this Subsection:
- 1) “Motor vehicle” means a motor vehicle owned, rented or consigned to a school.
 - 2) “School” means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
 - 3) “School administrator” means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
 - 4) “School premises” means premises owned, rented or under the control of a school.
- b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
- 1) On school premises;
 - 2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or

- 3) While participating in a school-sponsored activity.
- c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except as otherwise provided by Wisconsin Statutes and except that and Section 11-4-3(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

SEC. 11-4-7 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.

- a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- b) No adult may intentionally encourage or contribute to a violation of Section 11-4-3(a) or (b).
- c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00).

SEC. 11-4-8 SOLICITATION OF DRINKS PROHIBITED.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Town who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this Section.

CHAPTER 5

Offenses by Juveniles

- 11-5-1 Town Jurisdiction Over Juveniles
- 11-5-2 Enforcement and Penalties

SEC. 11-5-1 TOWN JURISDICTION OVER JUVENILES.

- a) **Adoption of State Statutes.** Sections 938.02, and 938.17(2), Wis. Stats., are hereby adopted and by reference made a part of this Section as if fully set forth herein.
- b) **Definition of Adult and Juvenile.**
 - 1) “Adult” means a person who is eighteen (18) years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any civil law or municipal ordinance, “adult” means a person who has attained seventeen (17) years of age.
 - 2) “Juvenile” means a person who is less than eighteen (18) years of age, except that for purposes of prosecuting a person who is alleged to have violated a civil law or municipal ordinance, “juvenile” does not include a person who has attained seventeen (17) years of age.
- c) **Provisions of Ordinance Applicable to Juveniles.** Subject to the provisions and limitations of Sec. 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against juveniles may be brought on behalf of the Town and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- d) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- e) **Additional Prohibited Acts.** In addition to any other provision of the Town Code of Ordinances, no juvenile shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- f) **Penalty for Violations of Subsection (d).** Any juveniles who violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

SEC. 11-5-2 ENFORCEMENT AND PENALTIES.

- a) **Citation Process.** Juveniles may be cited by the citation process on a form approved by the Town Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A copy will be mailed to the parent or legal guardian.
- b) **Penalties.** Violations by a person under the age of eighteen (18) shall be punishable according to Sections 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this Section shall prevent the juvenile officer, in his discretion, from referring cases directly to the District Attorney’s office.

CHAPTER 6

Public Nuisances

11-6-1	Public Nuisances Prohibited
11-6-2	Public Nuisances Defined
11-6-3	Public Nuisances Affecting Health
11-6-4	Public Nuisances – Intoxicating Liquor
11-6-5	Public Nuisances Affecting Peace and Safety
11-6-6	Abatement of Public Nuisances
11-6-7	Cost of Abatement

SEC. 11-6-1 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town.

SEC. 11-6-2 PUBLIC NUISANCE DEFINED.

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

- a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- b) In any way render the public insecure in life or in the use of property;
- c) Greatly offend the public morals or decency;
- d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property;
- e) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

SEC. 11-6-3 PUBLIC NUISANCES AFFECTING HEALTH.

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11-6-2:

- a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food, food byproducts or drink sold or offered for sale to the public.
- b) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.

- c) **Animals Running at Large.** All domestic animals running at large, including, without limitation, dogs, cats, horses, llamas and all other types of domestic pets.
- d) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the Town limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the Town.
- e) **Water Pollution.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- f) **Foul Odors, etc.** Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or substances offensive to the physical senses of an ordinary person possessed of ordinary tastes and susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of persons within the Town, other than odors produced through the operation of farming practices.
- g) **Abandoned Wells.** All abandoned wells not securely covered or secured from public use.
- h) **Junked Vehicles.** Disassembled, dismantled, partially dismantled, inoperable, junked, wrecked, or unlicensed motor vehicles, truck bodies, tractors, trailers, boats, or campers in such state of physical or mechanical ruin as to be incapable of propulsion or of being operated upon the public streets, highways, or waters.
- i) **Abandoned Equipment.** Abandoned, discarded or unused objects or equipment such as industrial equipment, farm machinery, furniture, stoves, refrigerators, freezers, cans, containers, lumber, trash, debris or yard waste.
- j) **Unsafe Buildings.** Any dwelling or building that has any or all of the following defects:
 - 1) any dwelling or building whose walls or vertical members list, lean or buckle to such an extent that a plumb line suspended from the top edge of such member shall fall outside of a distance from the edge equal to 1/3 of the thickness of such members;
 - 2) any dwelling or building which has a support member or members which have deteriorated to such an extent as to be unable to safely support the applied loads or which have forty percent (40%) damage or deterioration of the non-supporting, enclosed or outside walls or covering;
 - 3) any dwelling or building which has been damaged by fire, wind or other causes so as to become dangerous to life, safety, morals or the general health and welfare of the occupants;
 - 4) any dwelling or building which has parts thereof which are so attached that they may fall and injure persons or property;
 - 5) any dwelling or building which does not have an unobstructed means of egress leading to an open space at ground level;
 - 6) any dwelling or building which does not have the window area for each habitable room equal to at least ten percent (10%) of the total floor of such room;

- 7) any dwelling or building which has wiring that is dangerous due to lack of insulation, improper fuses, inadequate grounding, lack of capacity of wires or other dangerous conditions;
- 8) any dwelling or building which does not have an installed kitchen sink in each dwelling unit properly connected to the hot and cold water supply pipes and the sewer system;
- 9) any dwelling or building which does not have an installed tub or shower and lavatory in each dwelling unit properly connected to hot and cold water supply pipes and the sewer system;
- 10) any dwelling or building which does not have a flush type water closet in each dwelling unit located in a room affording privacy and properly connected to the water supply pipes and sewer system;
- 11) any dwelling or building which does not have installed electric lighting facilities consisting of at least two separate wall-type convenience outlets or one ceiling-type fixture and one wall-type outlet for every habitable room installed in accordance with the electrical code;
- 12) any dwelling or building which does not have either central heating, fireproof flues or fireproof vents serving each dwelling unit. All heating equipment whether installed by the owner or occupant must be vented and maintained in good order and repair.

SEC. 11-6-4 PUBLIC NUISANCES – INTOXICATING LIQUOR

All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license or contrary to an existing permit or license, are deemed a public nuisance.

SEC. 11-6-5 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11-6-2. Agriculturally-related farm activities are exempt from the definition of public nuisances contained in this section.

- a) **Excessive Noise.** All loud, discordant and unnecessary noises or vibrations or any kind. This definition shall not apply to noises made by agricultural vehicles, equipment or machinery, regardless of the time of day or night.
- b) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town. This definition shall not apply to noises made by farm animals.
- c) **Obstructions of Streets.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Town or which, although made in accordance with such ordinances, are kept or maintained for an

unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.

- d) **Open Excavations.** All open and unguarded pits, wells, excavations, and all unused, abandoned, or uninhabitable buildings or unused basements freely accessible from any public street, alley or sidewalk.
- e) **Appliances and Junk.** Any junk, wood, bricks, cement, concrete blocks, abandoned vehicles, or machinery or parts thereof, refrigerators, furnaces, washing machines, stoves, and other appliances or any other unsightly accumulation of items or materials such as may tend to depreciate property values in the area, or create a blighted condition, or create a hazard (except when such items are properly housed and out of public view).
- f) **Unauthorized Street Use.** Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
- g) All items enumerated in section 11-6-3, above.

SEC. 11-6-6 ABATEMENT OF PUBLIC NUISANCES.

- a) **Inspection of Premises.** Whenever a complaint is made to a member of the Town Board that a public nuisance exists within the Town, the Town Board shall inspect or cause to be inspected the premises complained of.
- b) **Notice to Owner.** If the Town Board determines that a public nuisance exists within the Town, it shall provide notice to the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises where such nuisance exists. The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove such nuisance within three (3) days. The notice shall also state that unless such nuisance is so abated, the Town shall cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- c) **Abatement by Town.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause the abatement or removal of such public nuisance.
- d) **Abatement by Court Action.** If the Town shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, the Town may cause an action to abate such nuisance to be commenced in the name of the Town in the Circuit Court of Fond du Lac County.
- e) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

SEC. 11-6-7 COST OF ABATEMENT.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the

Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

CHAPTER 7

Noise Ordinance

11-7-1	Purpose
11-7-2	Findings
11-7-3	Scope
11-7-4	Definitions
11-7-5	General Prohibition
11-7-6	Noises Prohibited
11-7-7	Exemptions

SEC. 11-7-1 PURPOSE.

This chapter is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the Town of Fond du Lac through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

SEC. 11-7-2 FINDINGS.

- a) Loud and raucous noise degrades the environment of the Town of Fond du Lac to a degree that:
- 1) is harmful to the health, welfare, and safety of its inhabitants and visitors;
 - 2) interferes with the comfortable enjoyment of life and property;
 - 3) interferes with the well-being, tranquility, and privacy of the home; and
 - 4) both causes and aggravates health problems.
- a) Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the Town's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.
- b) The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the Town of Fond du Lac.
- c) Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the Town of Fond du Lac.

SEC. 11-7-3 SCOPE.

This chapter applies to the control of all sound originating within the jurisdictional limits of the Town of Fond du Lac.

SEC. 11-7-4 DEFINITIONS.

- a) “Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.
- b) “Emergency Work” means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.
- c) “Impulsive Sound” means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- d) “Noise Sensitive Area” includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar institution is located.
- e) “Person” means any individual, firm, association, partnership, joint venture, or corporation.
- f) “Public right-of-way” means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.
- g) “Public Space” means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.
- h) “Residential Area” means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the Town of Fond du Lac’s zoning ordinance.

SEC. 11-7-5 GENERAL PROHIBITION.

- a) Unless otherwise stated herein, no person shall make, continue, or cause to be made or continued:
 - 1) any unreasonably loud or raucous noise or injuries;
 - 2) any noise which unreasonably disturbs, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the Town of Fond du Lac;
 - 3) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business;
 - 4) any noise exceeding the following when measured at the property line:

Sound Pressure Level Limit – dB(A)

District	Day (7 a.m. – 10 p.m.)	Night (10 p.m. – 7 a.m.)
Residential	55	50
Commercial	60	55
Industrial	80	75

- b) Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:
- 1) the proximity of the sound to sleeping facilities, whether residential or commercial;
 - 2) the land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - 3) the time of day or night the sound occurs;
 - 4) the duration of the sound; and
 - 5) whether the sound is recurrent, intermittent, or constant.

SEC. 11-7-6 NOISES PROHIBITED.

The following acts are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list:

- a) **Unreasonable Noises.** The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
- b) **Vehicle Horns, Signaling Devices, and Similar Devices.** The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the Town of Fond du Lac for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.
- c) **Non-Emergency Signaling Devices.** Sounding, or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for ore than ten (10) consecutive seconds in any hourly period. the reasonable sounding of such devices by houses of religious worship, ice cream trucks, seasonal contribution solicitors or by the Town of Fond du Lac for traffic control purposes are exempt from the operation of this provision.
- d) **Emergency Signaling Devices.** The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (d)(1) and (d)(2) below.

- (1) testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
 - (2) sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within fifteen (15) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter.
- e) **Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices.** The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings. Any noise exceeding the ambient noise level at the property line of any property (or, if a condominium or apartment house, within any adjoining apartment) by more than five decibels shall be deemed to be prima facie evidence of a violation of the provisions of this section.
- f) **Loudspeakers, Amplifiers, Public Address Systems and Similar Devices.** The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and 10:00 p.m. and 10:00 a.m. on weekends and holidays in the following areas:
- (1) within or adjacent to residential or noise-sensitive areas;
 - (2) within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous. The sound shall be deemed unreasonably loud if it exceeds 15 dBA above the ambient noise level as measured at the property line from which the sound emanates.
- This shall not apply to any public performance, gathering, or parade for which a permit for the date, time and place of the particular event has been obtained from the Town of Fond du Lac.
- g) **Yelling, Shouting and Similar Activities.** Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.
- h) **Animals and Birds.** Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels, [licensed under and in

compliance with licensing and permitting provisions set forth in this chapter] are exempt from this subsection.

- i) **Loading or Unloading Merchandise, Materials, Equipment.** The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.
- j) **Construction or Repair of Buildings, Excavation of Streets and Highways.** The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, a Building Inspector may issue a permit, upon application, if the Building Inspector determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7:00 p.m. and 7 a.m. will not be impaired, and if the Building Inspector further determines that loss or inconvenience would result to a party in interest. The permit shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.
- k) **Blowers and Similar Devices.** In residential or noise sensitive areas, between the hours of 7:00 p.m. and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.
- l) **Commercial Establishments Adjacent to Residential Property.** Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of five (5) feet from any residential property. Any sound that exceeds 15 dBA above the ambient noise level as measured at the property line from which the sound emanates shall be deemed unreasonably loud.
- m) **Unnecessary Engine Noise.** To discharge into open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or motorboat engine, except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.
- n) **Tire Squealing and Other Unnecessary Motor Noise.** Squealing of motor vehicle tires by intentional sudden acceleration or deceleration to accomplish that effect or unnecessary motor noise by the excessive acceleration of the engine or a motor vehicle.

SEC. 11-7-7 EXEMPTIONS.

Sounds caused by the following are exempt from the prohibitions set out in section 11-7-6 and are in addition to the exemptions specifically set forth in section 11-7-6:

- a) **Motor vehicles** on traffic ways of the Town of Fond du Lac, provided that the prohibition of 11-7-6(b) continues to apply.
- b) **Repairs of utility structures** which pose a clear and immediate danger to life, health, or significant loss of property.
- c) **Sirens, whistles, or bells** lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in 11-7-6(d) continues to apply.

- d) **The emission of sound** for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- e) **Repairs or excavations of bridges, streets or highways** by or on behalf of the Town of Fond du Lac, the State, or the federal government, between the hours of 7:00 p.m. and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and 7:00 p.m.
- f) **Outdoor School and Playground Activities.** Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.
- g) **Other Outdoor Events.** Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.
- h) **Agricultural Activity.** The operation of farm equipment and machinery for agricultural purposes, regardless of the time.

Chapter 8

Sex Offender Residency

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SEC. 11-8-1 RECITALS.

The Wisconsin Statutes, including Chapters 940, 944, and 948 thereof, govern the punishment of individuals who commit sex crimes. The Wisconsin Statutes also govern the release into the community of such individuals. The Town is responsible to maintain the public health, safety, and welfare and finds that sex offenders have high recidivism rates that threaten the public health, safety, and welfare, especially that of children.

SEC. 11-8-2 PURPOSE.

The purpose of this Ordinance is to protect the public health, safety, and welfare in the Town of Fond du Lac by regulating the residency of sex offenders.

SEC. 11-8-3 DEFINITIONS.

- a) **Sex Offender.** A person who has been convicted of, has been found delinquent of, or has been found not guilty of by reason of disease or mental defect of a Sexually Violent Offense or a Crime Against Children.
- b) **Sexually Violent Offense.** Shall have the meaning set forth in Wis. Stat. § 980.01(6).
- c) **Crime Against Children.** Shall mean any of the following offenses set forth in the Wisconsin Statutes, as amended, or in the laws of this or any other state or the federal government having like elements necessary for conviction, respectively:

Wis. Stat. § 940.225(1) First Degree Sexual Assault

Wis. Stat. § 940.225(2) Second Degree Sexual Assault

Wis. Stat. § 940.225(3) Third Degree Sexual Assault
 Wis. Stat. § 940.22(2) Sexual Exploitation by Therapist
 Wis. Stat. § 940.30 False Imprisonment – Victim was Minor and Not Offender’s Child
 Wis. Stat. § 940.31 Kidnapping – Victim was Minor and Not Offender’s Child
 Wis. Stat. § 944.02 Rape (prior statute, now Wis. Stat. § 940.225)
 Wis. Stat. § 944.06 Incest
 Wis. Stat. § 944.10 Sexual Intercourse with a Child (prior statute, now Wis. Stat. § 948.02)
 Wis. Stat. § 944.11 Indecent Behavior with a Child (prior statute, now Wis. Stat. § 948.02)
 Wis. Stat. § 944.12 Enticing Child for Immoral Purposes (prior statute, now Wis. Stat. § 948.07)
 Wis. Stat. § 948.02(1) First Degree Sexual Assault of a Child
 Wis. Stat. § 948.02(2) Second Degree Sexual Assault of a Child
 Wis. Stat. § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child
 Wis. Stat. § 948.05 Sexual Exploitation of a Child
 Wis. Stat. § 948.055 Causing a Child to View or Listen to Sexual Activity
 Wis. Stat. § 948.06 Incest with a Child
 Wis. Stat. § 948.07 Child Enticement
 Wis. Stat. § 948.075 Use of a Computer to Facilitate a Child Sex Crime
 Wis. Stat. § 948.08 Soliciting a Child for Prostitution
 Wis. Stat. § 948.095 Sexual Assault of a Student by School Instruction Staff
 Wis. Stat. § 948.11(2)(a) or (am) Exposing a Child to Harmful Material
 Wis. Stat. § 948.12 Possession of Child Pornography
 Wis. Stat. § 948.13 Convicted Child Sex Offender Working with Children
 Wis. Stat. § 948.30 Abduction of Another’s Child
 Wis. Stat. § 971.17 Not Guilty by Reason of Mental Disease or an Included Offense
 Wis. Stat. § 975.06 Sex Crime Law Enforcement

- d) **Residence.** A place where a person sleeps, abides, lodges, or resides on a permanent or regular basis. For purposes of this definition, a permanent basis means 14 or more consecutive days and a regular basis means 14 or more aggregate days during any calendar year and four or more days in any month. A person may have more than one residence.

SEC. 11-8-4 RESIDENCY RESTRICTION.

- (a) Except as otherwise provided in this Ordinance, a Sex Offender may not reside within 2,000 feet of any real property upon which there exists any of the following uses:

- (1) A school for children.
- (2) A public park, park facility, or pathway.
- (3) A daycare licensed by the State of Wisconsin.
- (4) A public library.
- (5) A public playground.
- (6) A public athletic field used by children.
- (7) A residential care center for children.
- (8) A public swimming pool.

- (b) For purposes of this section, distance is to be measured in a straight line from the closest boundary line of the real property upon which the Sex Offender's residence is located to the closest boundary line of the real property of the applicable use.

SEC. 11-8-5 RESIDENCY RESTRICTION EXCEPTIONS.

A Sex Offender residing within an area otherwise prohibited by Section 4 does not commit an offense if any of the following apply:

- a) The person is required to serve a sentence at a jail, prison, juvenile facility, or other facility located at the otherwise prohibited location.
- b) The person had established a Residence, as defined in Section 3 above, at the location prior to the effective date of this Ordinance.
- c) The use enumerated in Section 4 was established after the Sex Offender established a residence at the location and registered that residence as required by law.
- d) The Sex Offender is a minor or ward under guardianship.

SEC. 11-8-6 SAFETY ZONES.

No Sex Offender may enter or be present on any real property upon which there exists any facility used for or which supports the use of:

- a) A school for children.
- b) A public park, park facility, or pathway.

- c) A daycare licensed by the State of Wisconsin.
- d) A public library.
- e) A public playground.
- f) A public athletic field used by children.
- g) A residential care center for children.
- h) A public swimming pool.

SEC. 11-8-7 SAFETY ZONE EXCEPTIONS.

A Sex Offender present in an area otherwise prohibited by Section 6 does not commit an offense if any of the following apply:

- a) The property supporting a use enumerated in Section 6 also supports a church, synagogue, mosque, temple, or other house of religious worship, subject to the following conditions:
 - (1) Entrance and presence on the property may occur only during hours of worship or other religious program or service.
 - (2) The person may not participate in any religious education programs that include individuals under the age of 18.
- b) The property supporting a use enumerated in Section 6 also supports a use lawfully attended by the Sex Offender's natural or adopted child or children, which child's use reasonably requires the attendance of the Sex Offender, provided that entrance and presence on the property occurs only during hours of activity related to the use by the child or children.
- c) The property supporting a use enumerated in Section 6 also supports a polling location in a local, state, or federal election, subject to the following conditions:
 - (1) The Sex Offender is eligible to vote.
 - (2) The polling location is the designated polling location for the Sex Offender.
 - (3) The Sex Offender casts his or her ballot with whatever usual and customary assistance is available and vacates the property immediately after voting.

- d) The property supporting a use enumerated in Section 6 also supports a school lawfully attended by the Sex Offender as a student, provided that the Sex Offender may only remain on the property at such times that are reasonably required for his or her educational purposes.
- e) The property supporting a use enumerated in Section 6 also supports a police station, Town Hall, or other governmental building, provided that the Sex Offender vacates the property immediately after completing the activity that required his or her presence at the property.

SEC. 11-8-8 ORIGINAL RESIDENCY RESTRICTION.

In addition to the other residency restrictions set forth herein and subject to the limitations in Section 5, no Sex Offender may establish a residence in the Town of Fond du Lac unless he or she was a resident of Fond du Lac County at the time of the most recent offense resulting in the person's most recent conviction, commitment, or placement as a Sex Offender. This limitation shall not apply to the establishment of a residence at a dwelling that is owned by a member of the Sex Offender's family at the time the Sex Offender establishes residence therein. For purposes of this section, a member of a Sex Offender's family means the Sex Offender's mother, father, brother, sister, child, or grandparent.

SEC. 11-8-9 RENTAL OF PROPERTY FOR USE BY SEX OFFENDERS.

No person may rent any place, structure, or part thereof with knowledge that it will be used as a residence by any Sex Offender that is prohibited from establishing residence therein by this Ordinance.

SEC. 11-8-10 PETITION FOR EXEMPTION

- a) A Sex Offender may seek an exemption from this Ordinance by petitioning to the Sex Offender Residence Board ("Residence Board").
- b) The Residence Board shall consist of three citizens residing in the Town. Members shall be selected by the Town Chairperson subject to the approval of the Town Board. Members shall serve for a term of five years and shall serve no more than two consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one year, a second member serving three years, and a third member serving five years.
- c) The Residence Board shall approve an official petition form. The Sex Offender seeking an exemption must complete the petition and submit it to the Town Clerk, who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the Town's interest in promoting, protecting, and improving the health, safety, and welfare of the

community. Applicable factors for the Residence Board to consider include, but are not limited to:

- 1) Nature of the offense that resulted in designated offender status.
 - 2) Date of offense.
 - 3) Age at time of the offense.
 - 4) Recommendation of probation or parole officer.
 - 5) Recommendation of the Police Department.
 - 6) Recommendation of any treating practitioner.
 - 7) Counseling, treatment, and rehabilitation status of the Sex Offender.
 - 8) Remorse of Sex Offender.
 - 9) Duration of time since Sex Offender's incarceration.
 - 10) Support network of Sex Offender
 - 11) Relationship of offender and victim(s).
 - 12) Presence or use of force in offense(s).
 - 13) Adherence to terms of probation or parole.
 - 14) Proposals for safety assurances of Sex Offender.
 - 15) Conditions to be placed on the exemption.
- d)** The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address, time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the Sex Offender.

SEC. 11-8-11 ENFORCEMENT.

A person violating this Ordinance shall be subject to forfeitures in an amount of not less than \$200 nor more than \$500 for each violation plus the costs of prosecution (including reasonable attorneys' fees). For purposes of calculating forfeitures, each day that a violation exists shall

constitute a separate offense. Violations of this Ordinance are also deemed public nuisances, and the Town may bring an action in circuit court to enjoin or abate any violation.

SEC. 11-8-12 SEVERABILITY.

The terms and provisions of this Ordinance are severable. Should any term or provision of this Ordinance be found invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect, or, to the extent permitted by law, the court is authorized to substitute an alternative term or provision for the invalid term or provision.

SEC. 11-8-13 RULES OF CONSTRUCTION.

In the construction of this Ordinance, references to the singular include the plural. References to "person" extends to natural persons, firms, corporations, partnerships, limited liability companies, or other entities.