

# TITLE 11

---

## **Offenses and Nuisances**

<b>Chapter 1</b>	State Statutes Adopted
<b>Chapter 2</b>	Offenses Against Public Safety and Peace
<b>Chapter 3</b>	Offenses Against Property
<b>Chapter 4</b>	Offenses Involving Alcoholic Beverages
<b>Chapter 5</b>	Offenses by Juveniles
<b>Chapter 6</b>	Public Nuisances
<b>Chapter 7</b>	Regulation of Lewd and Sexually Explicit Conduct



# Title 11 ► Chapter 1

---

## State Statutes Adopted

- 11-1-1** Offenses Against State Laws Subject to Forfeiture
- 11-1-2** Penalties; Attempt; Parties to Act

### **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 Village of Elk Mound. 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 of Ordinances. The penalty for truancy and high school dropouts shall be governed by the provisions of Sec. 938.342, Wis. Stats., as adopted herein.

- 29.288 Throwing Refuse in Waters
- 50.58 Careless Smoking
- 118.07 Safety Requirements
- 118.08 School Zones; Crossings
- 118.09 Safety Zones
- 118.10 School Safety Patrols
- 118.105 Control of Traffic on School Premises
- 118.11 School Fences
- 118.123 Reports and Records
- 118.163 Truancy and School Dropout Violations
- 134.65 Cigarette and Tobacco Products Retailer License
- 134.66 Restrictions on Sale or Gift of Cigarettes or Tobacco Products
- 167.10 Fireworks Regulated
- 175.25 Illegal Storage of Junked Vehicles
- 938.125 Jurisdiction — Juveniles Alleged to Have Violated Civil Laws or Ordinances
- 938.17 Jurisdiction — Juveniles — Traffic, Boating, Snowmobile and All-Terrain Vehicle Violations and Other Civil Law and Ordinance Violations

**11-1-1**

- 938.342 Disposition — Truancy and School Dropout Ordinance Violations
- 938.343 Disposition — Juvenile Adjudged to Have Violated a Civil Law  
or an Ordinance
- 938.344 Disposition — Certain Intoxicating Liquor, Beer and Drug  
Violations
- 938.345 Disposition — Juvenile Adjudged in Need of Protection or  
Services
- 938.983 Purchase or Possession of Tobacco Products Prohibited
- 939.05(2)(b) Aiding and Abetting
- 939.22 Words and Phrases Defined
- 940.19(1) Battery
- 940.291 Failure of a Police Officer to Render Aid
- 940.42 Misdemeanor Intimidation of Witness's
- 940.44 Intimidation of Victims
- 941.01 Negligent Operation of a Vehicle
- 941.10 Negligent Handling of Burning Materials
- 941.12(2),(3) Interfering With or Failing to Assist in Firefighting
- 941.13 False Alarms and Interference with Firefighting
- 941.20(1) Reckless Use of Weapon
- 941.299 Restrictions on Use of Laser Pointers
- 941.23 Carrying Concealed Weapon
- 941.235 Carrying a Firearm in a Public Building
- 941.24 Possession of Switchblade Knife
- 941.35 Emergency Telephone Calls
- 941.36 Fraudulent Tapping of Electric Wires or Gas or Water Meters  
or Pipes
- 941.37(1),(2) Obstructing Emergency or Rescue Personnel
- 942.01 Defamation
- 942.03 Giving False Information for Publication
- 942.05 Opening Letters
- 942.20(1),(2) Theft
- 943.01(1) Criminal Damage to Property
- 943.11 Entry Into Locked Vehicle
- 943.125 Entry Into Locked Coin Box
- 943.13 Trespass to Land
- 943.14 Trespass to Dwellings
- 943.145 Criminal Trespass to a Medical Facility
- 943.15 Entry Into Locked Site
- 943.20(3)(a) Theft of Property
- 943.21 Fraud on Hotel or Restaurant Keeper, Recreational Attraction, Taxicab  
Operator, or Gas Station.

943.22	Cheating Tokens
943.23(1)(4)(5)	Operating Vehicle Without Owner's Consent
943.24	I.O.W.C.
943.34(1)(a)	Receiving Stolen Property
943.37	Alteration of Property Identification Marks
943.38(3)	Forgery
943.41	Financial Transaction Card Crimes
943.46	Theft of Cable Services
943.50(1)-(3), (4)(a)	Retail Theft
943.55	Removal of a Shopping Cart
943.70	Computer Theft
944.15	Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.21	Obscene Material or Performance
944.23	Making Lewd, Obscene or Indecent Drawings
944.25	Exposing a Child to Harmful Material
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.36	Solicitation of Drinks Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42(2)	Escape
946.46	Encouraging Violation of Probation or Parole
946.69	Falsely Assuming to Act as Public Officer or Employee
946.70	Impersonating Peace Officer
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.047	Littering Shores
947.06	Unlawful Assemblies
947.15	Contributing to the Delinquency of a Child
948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse With a Child Age 16 or Older

**11-1-1**

948.10	Exposing a Sex Organ
948.11(1)(b), (2)(b)	Exposing a Child to Harmful Material
948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.50	Strip Search by School Employee
948.51(1),(2), (3)(a)	Hazing
948.60	Possession of a Dangerous Weapon by a Child
948.61(1),(2)	Dangerous Weapons on School Premises
948.63	Receiving Property From a Child
948.70(2)	Tattooing of Children
951.01	Definitions Relating to Crimes Against Animals
951.015	Construction and Application
951.02	Mistreating Animals
951.03	Dognapping or Catnapping
951.04	Leading Animal from Motor Vehicle
951.05	Transportation of Animals
951.06	Use of Poisonous and Controlled Substances
951.07	Use of Certain Devices Prohibited
951.08	Instigating Fights Between Animals
951.09	Shooting at Caged or Staked Animals
951.10	Sale of Baby Rabbits, Chicks and Other Fowl
951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter
951.15	Animals; Neglected or Abandoned; Police Powers
951.16	Investigation of Animal Cruelty Complaints
951.17	Reimbursement for Expenses
961.01 - 961.61	Uniform Controlled Substances Act

**Sec. 11-1-2 Penalties; Attempt; Parties to Acts.**

- (a) **Penalty.** In addition to the general penalty provisions of this Code of Ordinances 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 law enforcement authorities 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 this Code of Ordinances of the Village of Elk Mound 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.





## Title 11 ► Chapter 2

---

# Offenses Against Public Safety and Peace

- 11-2-1** Regulation of Firearms, Paintball Devices, Explosives, and Other Missiles; Hunting Limitations
- 11-2-2** Open and Concealed Firearms and Weapons
- 11-2-3** Sale and Discharge of Fireworks Restricted
- 11-2-4** Obstructing Streets and Sidewalks Prohibited
- 11-2-5** Loitering and Unlawful Assemblies Prohibited
- 11-2-6** Noise Limitations; Noise Pollution Prevention
- 11-2-7** Disorderly Conduct
- 11-2-8** Failure to Obey Lawful Order; Resisting an Officer
- 11-2-9** Possession of Controlled Substances; Marijuana; Toxic Inhalants
- 11-2-10** Synthetic Cannabinoid and Drugs Prohibited
- 11-2-11** Consumption of Products Not Labeled for Human Consumption
- 11-2-12** Crossing a Police Line
- 11-2-13** Harassment
- 11-2-14** Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited
- 11-2-15** Gambling and Lotteries
- 11-2-16** Obstructing Emergency or Rescue Personnel
- 11-2-17** Improper Use of Lodging Establishments
- 11-2-18** Sexual Offender Residency Restrictions
- 11-2-19** Unauthorized Presence on School Property
- 11-2-20** E911 Emergency Telephone Call Abuse Prohibited

### **Sec. 11-2-1 Regulation of Firearms, Paintball Devices, Explosives and Other Missiles; Hunting Limitations.**

#### **(a) Discharge of Firearms Regulated.**

- (1) **Discharge Prohibited.** No person shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description in his/her possession or under his/her control within the Village of Elk Mound, except as provided in this Section.
- (2) **Exceptions.** The following shall not constitute a violation of Subsection (a) above:
  - a. The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB air

**11-2-1**

guns or pneumatic pellet guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or legal guardian.

- b. A person working for a firm or under a plan authorized by the Village Board to harvest wildlife pursuant to a Wisconsin Department of Natural Resources-approved Wildlife Management Program, or engaged in permissible hunting under this Section.
  - c. The discharge of a firearm by a law enforcement officer or military personnel acting within the line of duty, including but not limited to active operations, training exercises and ceremonies.
  - d. The discharge of a firearm in defense of human life or the residence or place of business of the person discharging the firearm.
  - e. The discharge of a firearm at an event, for which the party organizing or promoting such event has obtained a special permit issued by the Village Board or which is part of a veterans commemorative honor event.
- (b) **Limited Firearms Discharge and Hunting Authorized.**
- (1) ***Prohibitions; Wildlife Management Programs.*** Except as provided in Subsection (b)(2) below, no firearm hunting of any kind shall be allowed within the corporate boundaries of the Village of Elk Mound to protect the public health and safety. This provision does not apply to persons authorized by or firms hired by the Village of Elk Mound to conduct wildlife harvests pursuant to DNR-approved Wildlife Management Programs. Open hunting seasons as defined by the Wisconsin Department of Natural Resources (DNR) shall not be effective within such municipal boundaries, except as provided in Subsections (b)(2) and (d) below.
  - (2) ***Limited Firearms Hunting.***
    - a. Coinciding with the open hunting seasons defined by the Wisconsin Department of Natural Resources for hunting geese or deer, the Village Board may authorize the hunting of geese, waterfowl or deer within the Village of Elk Mound to limit their numbers. In the interest of public safety, permit conditions may include, but not be limited to, limits on numbers of authorized hunters, the use of blinds, and designation of specific locations where the hunting of geese, waterfowl or deer is permitted. The purpose of this hunting exception is to assist in the management of resident geese, waterfowl and deer numbers within the Village of Elk Mound.
    - b. Property owners may discharge a firearm on their own property for the purpose of varmint control.
- (c) **Shooting Into Village Limits.** No person located in the territory adjacent to the Village shall discharge any firearm in such manner that the discharge shall enter or fall within the Village of Elk Mound in a dangerous manner.
- (d) **Bow Hunting Authorized.** Hunting with a bow and arrow or crossbow is permitted at the times and in the manner prescribed by the Wisconsin Department of Natural Resources in the Village of Elk Mound subject to the following limitations:
- (1) ***Residence Proximity Limitation.*** A person may not hunt with a bow and arrow or crossbow within one hundred (100) yards from a building used for human occupancy located on another person's property, unless the owner of the property on which such

- building is located has authorized the hunter to hunt with a bow and arrow or crossbow within one hundred (100) yards from the residential building.
- (2) **Arrow Discharge Towards the Ground.** Hunting with a bow and arrow or crossbow shall only be permitted from a tree stand or elevated platform, and arrows or bolts shall be discharged toward the ground.
  - (3) **Bow Hunting on Public Property.** Bow hunting shall not be permitted on municipal, school, and public properties except where specifically authorized by the public body in control of such property. Village-owned public properties where hunting with a bow and arrow or crossbow is allowed shall be designated by ordinance.
- (e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the Village of Elk Mound without first obtaining a permit to do so from the Village Board.
- (f) **Throwing, Discharging, Projecting and Shooting Prohibited.**
- (1) **Prohibition.** Except as provided in Subsection (d) above, no person shall throw, discharge, project, or shoot any object, BB, pellet, stone, missile or projectile by any means in or onto property owned or possessed by another person or entity without the owner's or possessor's express permission.
  - (2) **Exceptions.** This Subsection shall not apply:
    - a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.
    - b. To a supervised archery range approved by the Village Board.
    - c. Within the interior of a single family dwelling.
    - d. To private archery practice provided such targets are placed in front of a building or an open agricultural field in such a manner as to prevent stray arrows from crossing or entering adjacent properties.
- (g) **Paintball Discharge Limited.** No person shall on any private property without the express permission of its owner or on any public property (including but not limited to public streets, sidewalks, parks, playgrounds, schools, open spaces, recreation facilities or any other public facility and/or grounds) discharge or cause to set off a paintball gun, except as provided as follows:
- (1) **Business Exclusion.** This Subsection specifically excludes any business engaged in the operation of paintball games operating within the appropriate zoning district in which the discharge of paintball guns is carried out in an approved controlled environment.
  - (2) **Exclusion on Private Property.** This Subsection specifically excludes the operation of a paintball gun on private property contingent upon the use of such paintball device being limited to a target which is protected by an appropriate barrier from other private property and prevents damage to same. Under no circumstance shall paintball guns be permitted to be aimed at other human beings and/or animals; this exclusion applies only to an appropriate target on private property.
- (h) **Definitions.** For purposes of this Section:
- (1) **Building.** A permanent structure used for human occupancy and includes a manufactured home, as defined in Section 101.91(2), Wis. Stats.

**11-2-1**

- (2) **Firearm.** Any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.
- (3) **Paintball Device.** Any paintball gun/device which is designed or intended to expel a projectile containing paint, ink, or similar material which can cause injury to people or property.
- (i) **Firearms Club(s) Exceptions.** Firearms may be discharged upon the properly zoned grounds of a Village Board-authorized rod & gun club by employees, members, and guests of such rod & gun club. Those using firearms on the premises of the rod & gun club shall be subject to all state laws, other municipal ordinances, and safety rules of the organization regarding the use of firearms on said premises.

*State Law Reference:* Sections 29.038, 66.0409, and 101.91(2), Wis. Stats.

*Cross-Reference:* Section 12-1-5, Park Hours.

## **Sec. 11-2-2 Open and Concealed Firearms and Dangerous Weapons.**

- (a) **Definitions.** The following definitions shall be applicable in this Section:
  - (1) **Dangerous Weapon.** Any firearm, whether loaded or unloaded; any device designed as a weapon capable of producing death or great bodily harm; any ligature or other instrumentality used on the throat, neck, nose, or mouth of another person to impede, partially or completely, breathing or circulation of blood; any electric weapon as defined in Sec. 941.295(1c)(a), Wis. Stats.; or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm. [Sec. 939.22, Wis. Stats.].
  - (2) **Electric Weapon.** Any device which is designed, redesigned, used or intended to be used, offensively or defensively, to immobilize or incapacitate persons by the use of electric current. [Sec. 941.295(1c)(a), Wis. Stats.].
  - (3) **Firearm.** A weapon that acts by force of gunpowder.
  - (4) **Handgun.** True handguns designed to be fired one-handed, and does not include machine guns, rifles or shotguns. [Sec. 175.60(1)(bm), Wis. Stats.].
  - (5) **Law Enforcement Officer.** Any person employed by the State of Wisconsin, or any political subdivision of this State, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws and/or ordinances he/she is employed to enforce.
  - (6) **Qualified Out-of-State Law Enforcement Officer.** For purposes of this Section, a law enforcement officer to whom all of the following apply:
    - a. The person is employed by a state or local government agency in another state;
    - b. The agency has authorized the officer to carry a firearm;

- c. The officer is not the subject of any disciplinary action by the agency that could result in the suspension or loss of the person's law enforcement authority;
  - d. The person meets all standards established by the agency to qualify the person on a regular basis to use a firearm; and
  - e. The person is not prohibited under federal law from possessing a firearm.
- (b) **Firearms and Dangerous Weapons Regulations.**
- (1) ***Concealed Carry License/Permit Requirement.*** Except as provided in Subsection (b)(3) below, no person shall carry on his or her person any concealed firearm(s) or other dangerous weapon(s) unless a valid license/permit as designated under Sec. 175.60, Wis. Stats., has been duly issued. The weapons that are eligible to be carried while concealed are: handguns; electric weapons; knives except switchblades; and billy clubs.
  - (2) ***Carrying Prohibited in Designated Municipal Buildings.*** In addition to the provisions of Sec. 175.60, Wis. Stats., enumerating places where the open or concealed carrying of a firearm or dangerous weapon is prohibited, including exceptions thereto, it shall be unlawful for any person to enter and/or remain in the following municipal buildings in the Village of Elk Mound while carrying a dangerous weapon or a firearm:
    - a. Elk Mound Municipal Building.
    - b. Village of Elk Mound Department of Public Works Building.
    - c. Restrooms or enclosed shelters at a Village park.
  - (3) ***Law Enforcement and Military Personnel Exceptions.*** Subsections (b)(1) and (2) above do not apply to:
    - a. A sworn law enforcement officer as defined in Sec. 175.60, Wis. Stats.
    - b. A former law enforcement officer who satisfied all of the following requirements:
      - 1. The former officer has been issued a photographic identification document or identification or certification card;
      - 2. The weapon carried is a firearm that is of the type described in the identification document; and
      - 3. Within the preceding twelve (12) months, the former officer met the standards of the state in which he/she resides for training and qualification for active duty law enforcement officers to carry firearms.
    - c. A qualified out-of-state law enforcement officer, but only if the weapon is a firearm but is not a machine gun or destructive device; the officer is not carrying a firearm silencer; and the officer is not under the influence of an intoxicant.
    - d. Armed forces personnel acting in the line of duty.
  - (4) ***Hunter's Safety Exemption.*** Hunter's Safety Courses by WisDNR-approved instructors are exempt from this Section, provided all firearms used are unloaded.
  - (5) ***Signage.*** Signs meeting the requirements of Sec. 943.13(2)(bm)1, Wis. Stats., shall be posted in prominent locations near all entrances of such buildings/places indicated that possession of a firearm in that building or place is prohibited.

- (6) **Miscellaneous Regulations.**
  - a. No person may carry any open or concealed firearm or dangerous weapon onto school property or within one thousand (1,000) feet of a school.
  - b. No person may carry any open or concealed firearm or dangerous weapon into any courtroom while in session.
  - c. No person may enter or remain in a public building which is properly signed and while in possession of any open or concealed firearm or dangerous weapon.
  - d. No person may carry any open or concealed firearm or dangerous weapon into a private business which is properly signed.
  - e. No person may carry any open or concealed firearm or dangerous weapon into any community-type event which lasts no longer than three (3) weeks, has controlled access points which are properly signed, and for which admission is charged.
  - f. No person may carry any open or concealed firearm or dangerous weapon into any establishment that serves alcohol for consumption on the premises and that person partakes in such consumption.
- (c) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**
  - (1) **Prohibitions.** No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "sucbai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the Village of Elk Mound.
  - (2) **Subsection Definitions.** For the purpose of this Subsection, the following definitions shall apply:
    - a. **"Numchuk" or "Nunchaku."** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
    - b. **"Churkin."** A round throwing knife consisting of several sharp points protruding from a rounded disc.
    - c. **"Sucbai."** A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.
  - (3) **Disposal of Seized Devices.** Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.
- (d) **Reckless Use of Weapons.**
  - (1) **Acts Prohibited.**
    - a. No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.

- b. No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he/she is under the influence of an intoxicant.
  - c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.
- (2) **Reckless Conduct Defined.** "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

### **Sec. 11-2-3 Sale and Discharge of Fireworks Restricted.**

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks within the limits of the Village of Elk Mound unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances, or is lawfully engaged in retail or wholesale sales activities permitted by state law. 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 fireworks, rockets or similar missiles containing explosive fuel.

*State Law Reference:* Sec. 167.10, Wis. Stats.

*Cross-Reference:* Title 7, Chapter 6.

### **Sec. 11-2-4 Obstructing Streets and Sidewalks Prohibited.**

- (a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village of Elk Mound in such a manner as to:
  - (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (b) **Obstructing Public Ways.**
  - (1) No person shall obstruct or interfere with by any means any vehicular, railroad or pedestrian traffic on any public walk, highway, street, alley, railroad track or public thoroughfare for the purpose of disrupting the orderly movement of such traffic or to impede intentionally or unintentionally the flow of the vehicular, train or pedestrian traffic on a public walk, highway, street, alley, railroad track or public thoroughfare or at any public building or premises, parking lot or structure.

**11-2-4**

- (2) 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 and sidewalks is a violation of this Section.
- (c) **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 Village of Elk Mound.
  - (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
  - (4) **Sidewalk.** Any sidewalk owned or maintained by the Village of Elk Mound. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (d) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

## **Sec. 11-2-5 Loitering and Unlawful Assemblies Prohibited.**

- (a) **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.
  - (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
  - (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.



(b) **Private Property Loitering Prohibited.**

- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.
- (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.
- (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

(c) **Loitering or Prowling Prohibited.**

- (1) No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement 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.
- (2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.
- (3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.
- (4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this Subsection, "loiter" means to, without just cause, remain in a restaurant,

tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

- (d) **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 Prohibited.** 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.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Elk Mound.
  - (3) **Unlawful Assemblies.** An "unlawful assembly" is an assembly which consists of three (3) or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed. An unlawful assembly includes an assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by any other person or persons of any private or public thoroughfares, property or of any positions of access or exit to or from any private or public building, or dwelling place, or any portion thereof and which assembly does in fact so block or obstruct the lawful use by any other person, or persons of such private or public thoroughfares, property or any position of access or exit to or from any private or public building, or dwelling place, or any portion thereof.
- (f) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce,

entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the law enforcement officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:

- (1) **Public Place** is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.
  - (2) **Known Prostitute or Panderer** means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.
- (g) **Unlawful Assemblies.** Whoever intentionally fails or refuses to withdraw from an unlawful assembly which the person knows has been ordered to disperse is guilty of a violation of this Section.

## **Sec. 11-2-6 Noise Limitations; Noise Pollution Prevention.**

- (a) **Purpose.** Excessive sound is a serious hazard to the public health, welfare, safety, and the quality of life. It is the intent of this Section to minimize the public's exposure to the physiological and psychological dangers of excessive noise, and protect, promote and preserve the public health, safety and welfare. It is the express purpose of this Section to control the level of noise in the Village of Elk Mound in a manner which promotes the reasonable use and enjoyment of property, conduct of business, sleep and repose of residents, and an environment free from unnecessary and excessive sound that constitutes noise pollution. This Section shall be liberally construed to carry out its public purposes.
- (b) **Definitions.** The following definitions shall be applicable in this Section, unless the context otherwise clearly indicates:
  - (1) **"A" Band Level.** The total sound level of all noise as measured with a sound level meter using the the "A" weighting network. The unit is the dB(A). Instrument response shall be set on "fast" for motor vehicle measurement and "slow" for all other measurements.
  - (2) **Ambient Noise Level.** The sound pressure level of the all-encompassing noise - associated with a given environment, being usually a composite of sounds with many sources and excluding the specific noise under investigation.
  - (3) **Band-Pressure Level.** The sound pressure level for the sound contained within the restricted band (a specified frequency).

- (4) **Commercial Purpose.** The use, operation or maintenance of any sound amplifying equipment for the purpose of advertising any business, or any goods, or any services, or for the purpose of attracting attention the attention of the public to or advertising for, or soliciting patronage or customers to or for any event, performance, show, exhibition or entertainment, or for the purpose of demonstrating any such sound equipment.
- (5) **Cycle.** The complete sequence of values of a periodic quantity which occurs during a period of time.
- (6) **Decibel (dB).** A unit of level which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio.
- (7) **Emergency Work.** Work made necessary to restore property to a safe condition following a public emergency or work required to protect persons or property from an imminent exposure to danger.
- (8) **Frequency.** The frequency of a function periodic in time shall mean the reciprocal of the primitive period. The unit is the "cycle per unit" and shall be specified.
- (9) **Microbar.** A unit of pressure commonly used in acoustics and is equal to one (1) dyne per square centimeter.
- (10) **Motor Vehicle.** Is defined in Sec. 340.01(35), Wis. Stats. For purposes of this Section, "motor vehicle" includes, but is not limited to, all of the following:
  - a. **Aircraft** as defined in Sec. 29.001(16), Wis. Stats.
  - b. **All-Terrain vehicles** as defined in Sec. 340.01(2g), Wis. Stats.
  - c. **Antique vehicles** as described in Sec. 341.265, Wis. Stats.
  - d. **Automobiles** as defined in Sec. 340.01(4), Wis. Stats.
  - e. **Boats** as defined in Sec. 29.001(16), Wis. Stats.
  - f. **Camping trailers** as defined in Sec. 340.01(6m), Wis. Stats.
  - g. **Farm equipment** as defined in Sec. 100.47(1), Wis. Stats.
  - h. **Farm tractors** as defined in Sec. 340.01(16), Wis. Stats.
  - i. **Hobbyist or homemade vehicles** as defined in Sec. 341.268, Wis. Stats.
  - j. **Junk vehicles** as defined in Sec. 340.01(25j), Wis. Stats.
  - k. **Implements of husbandry** as defined in Sec. 340.01(24), Wis. Stats.
  - l. **Manufactured homes** as defined in Sec. 101.91(2), Wis. Stats.
  - m. **Mobile homes** as defined in Sec. 340.01(29), Wis. Stats.
  - n. **Mopeds** as defined in Sec. 340.01(29m), Wis. Stats.
  - o. **Motor bicycles** as defined in Sec. 340.01(30), Wis. Stats.
  - p. **Motor buses** as defined in Sec. 340.01(31), Wis. Stats.
  - q. **Motor homes** as defined in Sec. 340.01(33m), Wis. Stats.
  - r. **Motor trucks** as defined in Sec. 340.01(34), Wis. Stats.
  - s. **Motor vehicle** as defined in Sec. 340.01(35), Wis. Stats.

- t. *Motorcycles* as defined in Sec. 340.01(32), Wis. Stats.
  - u. *Railroad trains* as defined in Sec. 340.01(48), Wis. Stats.
  - v. *Recreational vehicles* as defined in Sec. 340.01(48r), Wis. Stats.
  - w. *Road machinery* as defined in Sec. 340.01(52), Wis. Stats.
  - x. *Road tractors* as defined in Sec. 340.01(53), Wis. Stats.
  - y. *Salvage vehicles* as defined in Sec. 340.01(55g), Wis. Stats.
  - z. *School buses* as defined in Sec. 340.01(56), Wis. Stats.
  - aa. *Self-Propelled Vehicles* of any type.
  - bb. *Semi trailers* as defined in Sec. 340.01(57), Wis. Stats.
  - cc. *Snowmobiles* as defined in Sec. 340.01(58), Wis. Stats.
  - dd. *Special interest vehicles* as defined in Sec. 341.266, Wis. Stats.
  - ee. *Trailers* as defined in Sec. 340.01(71), Wis. Stats.
  - ff. *Truck tractors* as defined in Sec. 340.01(73), Wis. Stats.
  - gg. *Unlicensed demolition motor vehicles, unlicensed racing motor vehicles, and go carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles* that require no registration or licensure by the State of Wisconsin.
- (11) **Noncommercial Purpose.** The use, operation or maintenance of any sound equipment for other than a commercial purpose, and shall include, but not be limited to, civic, patriotic, philanthropic, charitable and/or political purposes.
- (12) **Period.** The smallest increment of time for which the function repeats itself.
- (13) **Periodic Quantity.** Means the oscillating quantity, the values of which recur for equal increments of time.
- (14) **Sound-Amplifying Equipment or Device.** Any device, equipment, musical instrument, loudspeaker, radio, television, digital or analog music player, public address equipment, electronics or machine for the amplification or intensification of music, the human voice, or any other sound. Not included in this definition are standard automobile or truck radios and audio equipment when used and heard only by the occupants of the vehicle in which the radio or audio equipment is installed. As used in this Section, this definition shall also not include warning devices on any emergency vehicle or vehicle used for traffic or worker safety purposes.
- (15) **Sound Analyzer.** A device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.
- (16) **Sound Level Meter.** An instrument sensitive to pressure fluctuations and meeting the standards of the American National Standards Institute (ANSI) SI.4-1983 or its successors. The instrument shall use the "A" weighted network.
- (17) **Sound Pressure Level.** Measured in decibels of sound, shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, which reference pressure shall be explicitly stated.
- (18) **Sound Truck.** Any motor vehicle, or any other vehicle regardless of method of motive power, whether stationary or in motion, having mounted thereon, or attached thereto, any sound-amplifying equipment.

- (19) **Spectrum of a Function of Time.** The spectrum of a function of time shall mean a description of its resolution into components, each of a different frequency.
- (c) **Decibel Measurement Criteria.** Unless otherwise indicated, any decibel (dB) measurement made pursuant to the provisions of this Section shall be based on the reference sound pressure and measured with a sound level meter using the "A" weighting network. In this Section, the terms dB and dB(A) are synonymous unless otherwise stated.
- (d) **Limitations on General Sources of Sound or Noise.**
- (1) **Loud and Unnecessary Noise or Sound Prohibited.**
- a. It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise as regulated by this Section. No person shall cause, suffer, allow or permit the operation of any source of sound or noise in such manner as to create a sound level that equals or exceeds the sound level limits set forth in this Section or which occurs during designated times of sound or noise limitation. Noise and sound shall be so muffled or otherwise controlled as not to become objectionable, due to intermittence, duration, beat, frequency, periodic character, impulse character or shrillness
- b. It shall be unlawful for any person to use or operate, or permit to be used or operated, any sound-amplifying equipment or device in any public or private place in such manner that persons owning, occupying or using property in the neighborhood are unreasonably disturbed or annoyed by noise or sound levels that equal or exceed the sound level limits set forth in this Section.
- (2) **General Noise Sound Levels Established.** The maximum permissible sound pressure levels of any continuous source of sound shall be as herein established for the time period and use classification listed below. This includes, but is not limited to, sound from such activities as production, processing, entertainment, cleaning, servicing, maintenance, operating and/or repairing vehicles, goods, materials, products or devices. Sound pressures in excess of those established below, during the named time periods, shall constitute prima facie evidence that such sound is an excessive and unnecessary noise creating noise pollution:

**Sound Pressure Level Limit dB(A)**

---

<b>Districts/Time</b>	<b>Residential</b>	<b>Commercial</b>	<b>Industrial</b>
7 a.m. - 10 p.m. (Day)	65	65	75
10 p.m. - 7 a.m. (Night)	55	55	65

[**Note:** "Residential" includes the residential portion of a multi-use property. "Commercial" includes the non-residential portion of a multi-use property and public properties.]

- (3) **Agricultural Parcels.** The sound pressure limits established above for commercial parcels shall also apply to any parcel of land zoned agricultural..
  - (4) **Where Measured.** Sound pressure levels shall be measured at the approximate location of the property line or the boundary of the public right-of-way, at a height of at least three (3) feet above the ground surface and at least three (3) feet away from walls, obstructions, barriers or sound reflective surfaces. Measurements shall be taken using a sound level meter which operates on the "A" weighting network.
  - (5) **Different Land Use Categories.** Sound projecting from a property of one land use category onto property of another land use category having a lower sound level limit shall not exceed the limits for the property of the land use category onto which it is projected.
- (e) **Exceptions.** The sound level limitations of Subsection (d) above shall not apply to:
- (1) **Emergency Work.** Sounds caused by emergency equipment and emergency work necessary in the interests of law enforcement or the protection of the safety, health or welfare of the community or individuals, or to restore property to a safe condition following a calamity.
  - (2) **Emergency Alarms.** Sounds created by fire and other emergency alarms.
  - (3) **State-Prescribed Noise Limits.** Situations where specific noise standards or limitations prescribed by the Wisconsin Statutes or Wisconsin Administrative Code are applicable.
  - (4) **Federal Noise Limits.** Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), by the Federal Emergency Management Agency (FEMA) or other government agencies to the extent that they comply with the noise requirements of the enabling legislation or regulation. Examples are sounds regulated by federal law that include sounds caused by aircraft, railroads and interstate motor carriers.
  - (5) **Sports and School Events.** Amplified or non-amplified sounds created by organized athletic, school or other group activities, when those activities are conducted on property generally used for that type of activity, such as athletic fields, parks, and schools, between the hours of 7:00 a.m. and 11:00 p.m.
  - (6) **Community Events; Public Fireworks Displays.** Sounds created by community/civic events, such as, but not limited to, public fireworks displays, street dances, fairs and festivals, between the hours of 7:00 a.m. and 11:00 p.m. Included in this exception is the reasonable utilization of amplifiers or loudspeakers in the course of noncommercial use at such events.
  - (7) **Solid Waste Collection.** Sounds made by Village-authorized solid waste and recyclables collectors engaged in collection activities.
  - (8) **Snow Removal.** Sounds made by the removal of snow or ice from public or private property provided equipment used for this purpose has operable mufflers meeting manufacturer's specifications.

**11-2-6**

- (9) **Public Works Construction.** Excavations or repairs of streets or other public construction on behalf of a governmental entity at night when public welfare and convenience is served.
- (10) **Bells and Chimes.** Any bell or chime or any device for the production or reproduction of the sound of bells or chimes from any clock, school or place of religious worship.
- (f) **Specific Noise and Sound Limitations.**
  - (1) **Lawn and Yard Maintenance Equipment.** Sounds created by yard maintenance equipment, such as lawn mowers, power tools, home maintenance tools, leaf blowers, chainsaws, rototillers, and yard maintenance equipment, are exempt from the sound limits of Subsection (d) provided such equipment is operated with operable mufflers meeting manufacturer's specifications. Such equipment shall only be operated outside between the hours of 7:00 a.m. and 9:00 pm.
  - (2) **Portable Sound Production Devices on Public Property.** Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space, public property or public right-of-way in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the operator between the hours of 7:00 a.m. and 9:00 p.m. Between the hours of 9:00 p.m. and 8:00 a.m., such sound shall not be plainly audible at a distance of twenty-five (25) feet in any direction from the operator.
  - (3) **Construction, Repair or Demolition of Buildings.** The construction (including excavation), demolition, alteration, or repair of any building, as well as the operation of any pile driver, heavy equipment, pneumatic hammer, motorized or electric hoist or any similar such equipment attended by loud or unusual noise shall only be conducted between the hours of 7:00 a.m. and 9:00 p.m. Monday through Friday and 7:00 a.m. and 9:00 p.m. Saturday or Sunday. Such operations shall be subject to the sound level limitations of Subsection (d) above.
  - (4) **Schools, Hospitals, Religious Institutions and Libraries.** No person shall create any unnecessary noise on any street, sidewalk or public place adjacent to any school, library or religious institution while the same is in use; or adjacent to any hospital which noise unreasonably interferes with the operations of such facility or which unduly disturbs patients therein, provided signage is erected on such street, sidewalk or public place indicating the presence of a school, hospital, religious institution or library.
  - (5) **Public Disturbances and Disorderly Conduct.** No person shall persistently yell, shout, hoot, whistle, sing or create other human-produced noise that is unnecessarily loud and disturbs the peace of persons residing beyond a property line between the hours of 10:00 p.m. and 7:00 a.m.
- (g) **Temporary Variance Permits.**
  - (1) **Application.** The Police Department may grant a temporary permit which allows noncompliance with the limitations prescribed in this Section for the purpose of



amplified sound or construction noise activities of short duration. Permits may be granted upon application provided an initial evaluation indicates that the permit will not result in a condition injurious to public health, safety and general enjoyment of property. The application shall contain the following information:

- a. Dates requested;
- b. Time and place of operation;
- c. Equipment and operation involved;
- d. Necessity for such permit;
- e. Steps to be taken to minimize noise; and
- f. Name, address and contact information (landline, cellphone and fax numbers; email address) of the responsible person(s) who will be present at the site while the noise is being produced.

(2) **Application Review Criteria.** The following factors will be considered in the evaluation of an application:

a. **Temporary Amplified Sound Permits.**

1. Distance of proposed activities from noise-sensitive property.
2. Number and type of amplification devices to be used with the proposed activities.
3. Anticipated direction of amplification devices.
4. Anticipated length of proposed activities.
5. Whether the activity will be held within or outside of a structure.
6. The public purposes of this Section.

b. **Temporary Construction Noise Permits.**

1. Distance from noise-sensitive property.
2. Type of activity and equipment.
3. Estimated noise level and duration.
4. Noise mitigation measures to be employed.
5. Health and safety benefits to be realized as a result of the completed project.
6. A statement explaining how compliance with the standards of this Section would cause extraordinary loss or inconvenience to the applicant and be against the public interest.
7. The public purposes of this Section.

(3) **Application Determination; Revocation; Appeals.**

- a. Upon a determination that the granting of a temporary variance permit will not result in a condition injurious to public health or safety, the permit may be issued, with any requirements appropriate to the proposed activity site.
- b. A Village enforcement official may revoke a temporary variance permit if it is found that any requirement of the permit has been violated.
- c. Any person aggrieved by the disposition of an application and/or issuance of a temporary variance permit may appeal such disposition to the Village Board by

filing a written appeal request with the Village Clerk-Treasurer within fifteen (15) days of the issuance decision regarding the permit.

## **Sec. 11-2-7 Disorderly Conduct.**

- (a) **Disorderly Conduct Prohibited.** No person within the Village of Elk Mound 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;
  - (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
  - (4) Indecently expose his or her person;
  - (5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.
- (b) **Violent and Abusive Behavior; Non-Verbal Gestures.** No person in any public or private place may engage in any violent, 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 disturb or annoy any other person. Such prohibited conduct also includes non-verbal gestures, signals or gang signs if said conduct tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person.
- (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 Village of Elk Mound, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.
- (d) **Disturbance of Meetings.** No person may disrupt or disturb any congregation, audience, public meeting or lawful assembly of persons of any kind, or in concert with others disturb or disrupt such meeting.
- (e) **Public Intoxication.** It shall be unlawful for any person to in public be in a state of intoxication, either under the influence of a controlled substance, prescription drug, alcohol beverage or other substance.
- (f) **Public Indecency.**
- (1) **Definitions.** As used in this Section, the following definitions shall be applicable:
    - a. **Nudity.** The showing of the human male or female genitals, pubic area, or buttocks with less than fully opaque covering, the showing of the female breast

- with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.
- b. **Peep.** Any looking or peering of a clandestine, surreptitious, prying, or secretive nature.
- (2) **Prohibitions.** Whoever does any of the following is guilty of public indecency:
- a. Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others.
  - b. Publicly and indecently exposes genitals or pubic area.
  - c. Appears publicly in a state of nudity.
  - d. Engages in masturbation, or conduct which would appear to an ordinary observer to be masturbation, with knowledge that they are in the presence of others or that they can be observed by others.
- (3) **Prohibited Nonconsensual Behavior.** No person shall do any of the following without the consent of the other person:
- a. Peep into an area where an occupant of the area has a reasonable expectation of privacy, including, but not limited to:
    1. Restrooms;
    2. Bath and/or shower units; and
    3. Dressing rooms.
  - b. Go upon the land of another with the intent to peep into an occupied dwelling of another person; this includes the placement of recording devices.
- (4) **Exceptions.**
- a. This Section shall not apply to the following:
    1. Legitimate, authorized law enforcement activities.
    2. A mother's breast-feeding of her child.
  - b. Subsection (2)b above shall not apply to the following:
    1. A theater, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this Section were permitted or allowed as part of such art exhibits or performances.
    2. Establishments fully complying with the requirements of Title 11, Chapter 7 and Title 15 of this Code of Ordinances.

*Cross-References:* Section 11-2-6(c), Title 11, Chapter 7, and Title 15.

*State Law Reference:* Sec. 944.20, Wis. Stats.

## **Sec. 11-2-8 Failure to Obey Lawful Order; Resisting an Officer.**

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

- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any law enforcement officer or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of the officer's duties, or to in any way interfere with or hinder or prevent the officer from discharging his/her duties as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his/her official capacity in carrying out his/her duties.

### **Sec. 11-2-9 Possession of Controlled Substances; Marijuana; Toxic Inhalants.**

- (a) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I and II under Chapter 961, Wis. Stats., which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his/her professional practice, or except as otherwise authorized by this Code of Ordinances. [See also Sec. 11-5-6 regarding Drug Paraphernalia].
- (b) **Possession of Marijuana.**
- (1) No person shall possess twenty-five (25) grams or less of marijuana (tetrahydrocannabinols, commonly known as "THC", in any form including tetrahydrocannabinols (THC) contained in marijuana or its salts, isomers or salts of isomers, obtained from marijuana or chemically synthesized), as defined in Sec. 961.01, Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.
  - (2) A positive Dequenois/Levine test for tetrahydrocannabinols, or other test of comparative validity, shall be prima facie evidence that the substance is or contains tetrahydrocannabinols.
  - (3) For purposes of this Section, "practitioner" means:
    - a. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.
    - b. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer

a controlled substance in the course of professional practice or research in the State of Wisconsin.

- (4) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.
- (c) **Toxic Inhalants.**
- (1) **Definitions.** "Toxic inhalants" shall mean any glue, paint, gasoline, aerosol, adhesive cement, mucilage, plastic cement or any similar substance containing one or more of the following volatile substances:
- a. Acetone;
  - b. Benzene;
  - c. Butyl alcohol;
  - d. Cyclohexanone;
  - e. Ethyl acetate;
  - f. Ethyl alcohol;
  - g. Ethylene dichloride;
  - h. Hexane;
  - i. Isopropyl alcohol;
  - j. Methyl alcohol;
  - k. Methyl celosove;
  - l. Acetate;
  - m. Methyl ethyl ketone;
  - n. Methyl isobutyl ketone;
  - o. Pentachlorophenol;
  - p. Petroleum ether;
  - q. Trichlorethylene;
  - r. Tricresylphosphate;
  - s. Toluene;
  - t. Toluol; or
  - u. Any other chemical capable of producing intoxication when inhaled.
- (2) **Inhalation of Vapors or Fumes from Toxic Inhalants Prohibited.** No person shall inhale or otherwise introduce into his respiratory tract any toxic vapors or fumes which may be released from any toxic inhalants with the intent of becoming intoxicated, elated, excited, stupefied, irrational, paralyzed, or of changing, distorting, or disturbing his/her eyesight, thinking process, judgment, balance or muscular coordination.
- (3) **Limitations on Sales, Transfer, and Possession of Toxic Inhalants.** No person shall, for the purpose of violating or aiding another to violate any provision of this Subsection, possess, buy, sell, transfer possession or receive possession of any toxic inhalants.

- (d) **Additional Penalties.** In addition to the penalties in Section 1-1-6:
- (1) **Adult Operating Privilege Suspension.** If any adult violates Subsections (b) or (c), the court shall, in addition to any other penalties that may apply to the offense, suspend or revoke the person's operating privilege for not less than six (6) months nor more than five (5) years. The court shall immediately take possession of any suspended or revoked license and forward it to the Wisconsin Department of Transportation (WisDOT), together with the record of conviction and notice of suspension or revocation.
  - (2) **Supervised Work Program.** If any person who is under eighteen (18) years of age violates Subsections (b) or (c), such person shall be subject to the same penalties set forth in Subsection (d)(1) or participation in a supervised work program or both.
  - (3) **Juvenile Operating Privilege Suspension.** If any person who is under eighteen (18) years of age violates Subsections (b) or (c), the court shall, in addition to any other penalties that may apply to the offense, suspend or revoke the person's operating privilege for not less than six (6) months nor more than five (5) years. The court shall immediately take possession of any suspended or revoked license and forward it to the Wisconsin Department of Transportation, together with the record of conviction and notice of suspension or revocation.

*State Law Reference:* Chapter 961, Wis. Stats.

## **Sec. 11-2-10 Synthetic Cannabinoid and Drugs Prohibited.**

- (a) **Purpose; Background.**
- (1) **Background – Synthetic Cannabinoid.** Products that are commonly known as synthetic cannabinoid, marijuana containing synthetic cannabinoids, synthetic THC, or substantially similar chemicals or products often in the form of incense, potpourri, plant food, spice, special dietary supplements or herbal smoking blends, are commonly marketed or sold to the public under names such as, but not limited to: "K2", "K3" or "K4"; "K-2 Summit"; "K-2 Sex"; "Spice"; "Genie"; "Yucatan Fire"; "Dascents"; "Zohal"; "Sage"; "Pep Spice"; "Solar Flare"; "K.O. Knock-Out 2"; "Spice Gold"; "Spice Diamond"; "Spice Cannabinoid"; and "Fire and Ice".
  - (2) **Background – Synthetic Drugs.** Like the marketing of synthetic cannabinoids as incense [such as, but not limited to, Spice or K2], synthetic drugs are also commercially available, and in some instances are marketed as bath salts under such names as Bliss, Vanilla Sky, White Lightning, Ivory Snow, Ivory Wave, Purple Wave, Red Dove, Hurricane Charlie or other names, or are packaged or marketed as potpourri, incense, plant food, spice, tobacco, or dietary supplements.
  - (3) **Scientific Background.** The Village Board finds that the United States Drug Enforcement Agency in 2008 alerted law enforcement and public officials that

synthetic cannabinoid products are structurally and pharmacologically similar to the active ingredient of marijuana (THC), a Schedule 1 controlled substance. While there are hundreds of synthetic compounds and their analogs, some are more common synthetic cannabinoids and synthetic drugs include, but are not limited to:

- a. ***Salviadinorum or Salvinorum A.*** All parts of the plant presently classified botanically as *salvia divinorum*.
- b. ***JWH-018.*** (1-Pentyl-3-(1-naphthoyl) indole is an analgesic chemical from the naphthoylindole family, which acts as a full agonist at both the CB1 and CB2 cannabinoid receptors, with some selectivity for CB2. It produces effects in animals similar to those of THC, a cannabinoid naturally present in cannabis, leading to its use in synthetic cannabis.
- c. ***JWH-073.*** 1-butyl-3-(1-naphthoyl) indole is an analgesic chemical from the naphthoylindole family, which acts as a partial agonist at both the CB1 and CB2 cannabinoid receptors. It is somewhat selective for the CB2 subtype with affinity at this subtype approximately 5x the affinity at CB1. The abbreviation JWH stands for John W. Huffman, one of the inventors of the compound.
- d. ***JWH-200.*** 1-[2-4(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole is an analgesic chemical from the phenylacetylindole family, which acts as a cannabinoid agonist at both the CB1 and CB2 receptors, with a  $K_i$  of 11nM at CB1 and 33nM at CB2. Unlike many of the older JWH series of compounds, this compound does not have a naphthalene ring, instead occupying this position with a 2'-methoxyphenyl group making JWH-250 a representative member of a new class of cannabinoid ligands.
- e. ***CP 47, 497.*** 2-(3-hydroxycyclohexyl)-5-(2-methylcyclohexyl) phenol [some trade and other names: CP-47, 497] and 2-(3-hydroxycyclohexyl)-5-(2-methylnonan-2-yl) phenol [some trade names and other names: CP-47, 497, C8 homologue, cannabicyclohexanol] is a cannabinoid receptor agonist drug, developed by Prizer in the 1980's. It has analgesic effects and is used in scientific research. It is a potent CB1 agonist with a  $K_d$  of 2.1nM.
- f. ***JWH-081.*** 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl) methanone is an analgesic chemical from the naphthoylindole family, which acts as a cannabinoid agonist at both the CB1 and CB2 receptors. It is fairly selective for the CB1 subtype, with affinity at this subtype approximately 10x the affinity at CB2.
- g. ***JWH-250.*** (1-pentyl-1H-indol-3-yl)-2-(2-methoxyphenyl)-ethanone is an analgesic chemical from the phenylacetylindole family, which acts as a cannabinoid agonist at both the CB1 and CB2 receptors, with a  $K_i$  of 11nM at CB2. Unlike many of the older JWH series compounds, this compound does not have a naphthalene ring, instead occupying this position with a 2'-methoxyphenylphenylacetyl group making JWH-250 a representative member of a new class of cannabinoid ligands.
- h. ***HU-210.*** (6aR, 10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)6a, 7, 10, 10a-tetrahydrobenzo[c] chromen-1-ol is structurally and pharmacologically similar to tetrahydrocannabinol.

**11-2-10**

- (4) **Federal Health and Law Enforcement Warning.** The Village Board notes that the National Drug Intelligence Center of the United States Department of Justice issued an immediate alert to law enforcement and public health officials of potential substance abuse problems and harmful side effects related to the use of these synthetic cannabinoid products in EWS 000006 dated May 18, 2010.
  - (5) **Statutory Status.** The Village Board finds that while these synthetic cannabinoids and synthetic drugs listed above may be prohibited controlled substance analogs under Chapter 961, Wis. Stats., the State of Wisconsin may not specifically list all varieties of synthetic cannabinoids and synthetic drugs as controlled substances in Chapter 961, Wis. Stats.
  - (6) **Municipal Determination.** The Village Board finds that, in order to promote the public health, safety and welfare, products containing synthetic cannabinoids or synthetic drugs, and their derivatives, analogues, homologues, salts, optical isomers and salts of optical isomers with substantially similar chemical structure and pharmacological activity intended to mimic the effects of marijuana or other controlled substance, such synthetic substance(s) should be prohibited in the Village of Elk Mound. Ingestion of synthetic drugs has been shown to produce dangerous side effects such as, but not limited, to:
    - a. Nausea;
    - b. Vomiting;
    - c. Hallucinations;
    - d. Blurred vision;
    - e. Delusions;
    - f. Headaches;
    - g. Agitation;
    - h. Anxiety;
    - i. Insomnia;
    - j. Convulsions;
    - k. Addiction;
    - l. Psychosis;
    - m. Elevated blood pressure;
    - n. Loss of consciousness;
    - o. Tremors;
    - p. Suicidal thoughts;
    - q. Seizures;
    - r. Paranoid behavior;
    - s. Elevated or irregular heart rates; and
    - t. Death.
- (b) **Possession and Sale of Synthetic Cannabinoids Prohibited.** It shall be illegal for any person to possess, purchase, attempt to purchase, sell, publically display for sale or attempt



to sell, give, or barter any material, chemical, compound, mixture or preparation that is intended to have the same or similar effects of the controlled substance marijuana including, but not limited to, synthetic cannabinoids, JWH-018, JWH-073, JWH-200, JWH-081, JWH-250, Hu-210; cannabicyclohexanol, cp 47, 497; or any similar structural analogs commonly found in, referred to, or marketed or sold under the names "K2", "K3", "K4", "Spice", "Genie", "Yucatan Fire", "Fake", "new or legal marijuana", or by any other name, label or description:

- (1) Salviadinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
  - (2) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3 (2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol, some trade or other name(s); HU-210;
  - (3) 1-Pentyl-3-(1-naphthoyl) indole or some trade or other name(s); JWH-018, Spice;
  - (4) 1-Butyl-3-(1-naphthoyl) indole or some trade or other name(s); JWH-073;
  - (5) 1-(3{trifluoromethylphenyl}) piperazine or some trade or other name(s); TFMPP;
  - (6) 1-[2-4(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole or some trade or other name(s); JWH-200;
  - (7) 2-(3-hydroxycyclohexyl)-5-(2-methyllocatan-2-yl) phenol or some trade or other name(s); CP-47, 497;
  - (8) 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl) methanone or some trade or other name(s);
  - (9) (1-pentyl 1H-indol-3-yl)-2-(2methoxyphenyl)-ethanone or some trade or other name(s); JWH;
  - (10) Any similar structural analogs or synthetic cannabinoids specified in Section 961.14(4)(tb) through (ty), Wis. Stats., if not otherwise listed above.
- (c) **Possession and Sale of Synthetic Drugs Prohibited.** It shall be illegal in the Village of Elk Mound for any person to possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give or barter any material, chemical, compound, mixture or preparation that is a synthetic drug, including, but not limited to the following:
- (1) Methylenedioxypropylone, commonly known as "MDPV" or "bath salts".
  - (2) 4-methylmethcathinone, commonly known as "mephedrone" or "4-MMC".
  - (3) 4-bromo-2,5-dimethoxy-beta-phenylethylamine, commonly known as "Nexus" or "2C-B".
  - (4) 4-iodo-2,5-dimethoxy-beta-phenylethylamine, commonly known as "2C-1".
  - (5) Any other substance which has been listed as a synthetic drug in the Wisconsin Statutes or Village ordinances, including this Section, and their derivatives, analogues, homologues, salts, optical isomers and salt of isomers with substantially similar chemical structure and pharmacological activity as a synthetic drug or other controlled substance.

**11-2-10**

- (d) **Use or Possession of Synthetic Cannabinoids or Synthetic Drugs.** It shall be unlawful for any person to use, possess, attempt to possess, inject, ingest, insert rectally, burn, incinerate or ignite the any substance prohibited by this Section. For purposes of this Section, a person knowingly possesses such substances when the person knows the substance induces the effects described in this Section, regardless of whether the person knows whether a chemical compound specifically described in this Section is present in the product being used or possessed.
- (e) **Additional Statutory-Derived Prohibitions.** Section 961.14 and 961.41, Wis. Stats., are adopted and incorporated herein by reference. The following are prohibitions based upon those statutory regulations:
  - (1) The possession of any controlled substance (i.e. synthetic cannabinoids) specified in Section 961.14(4)(tb) through (ty), Wis. Stats., is prohibited.
  - (2) Any act prohibited by Section 961.41(3g)(em), Wis. Stats., pertaining to MDPV and mephedrone or a controlled substance analog of synthetic cannabinoids is prohibited.
  - (3) Any act prohibited by Section 961.41(3g)(d), Wis. Stats., pertaining to MDPV and mephedrone or a controlled substance analog of MDPV or mephedrone is prohibited.
- (f) **Medical or Dental Use Allowed.** Acts otherwise prohibited under this Section shall not be unlawful if done by or under the direction of prescription of a licensed physician, dentist or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal law.
- (g) **Definitions.** The following words, terms or phrases, when used in this Section, shall have the meanings ascribed to them as follows, except where the text clearly indicates a different meaning or the word, term or phrase is defined in the Wisconsin Statutes:
  - (1) **Analogue.** A chemical compound that is structurally similar to another but differs slightly in composition, such as in the replacement of an atom by an atom of a different element or in the presence of a particular functional group.
  - (2) **Homologue.** One of a series of compounds distinguished by the addition of a CH<sub>2</sub> group in successive members.

## **Sec. 11-2-11 Consumption of Products Not Labeled For Human Consumption.**

- (a) **Statement of Purpose; Findings of Fact.** The Village Board of the Village of Elk Mound finds the following facts to exist:
  - (1) The consumption of products labeled not for human consumption is a public health hazard, creates public nuisance situations, and results in an increased need for public safety services.
  - (2) Health hazards associated with the consumption of such products and materials include:

- a. Addiction;
  - b. Stimulation;
  - c. Psychosis;
  - d. Stroke;
  - e. Anxiety;
  - f. Agitation;
  - g. Nausea;
  - h. Vomiting;
  - i. Hallucinations;
  - j. Blurred vision;
  - k. Delusions;
  - l. Headaches;
  - m. Insomnia;
  - n. Convulsions
  - o. Elevated blood pressure;
  - p. Loss of consciousness;
  - q. Tremors;
  - r. Suicidal thoughts;
  - s. Seizures;
  - t. Paranoid behavior;
  - u. Elevated or irregular heart rates; and
  - v. Other physical and mental disorders.
- (3) This Section is intended to compliment state and federal laws regulating products labeled not for human consumption, including, but not limited to, synthetic drugs. In the event of conflict, the most restrictive regulatory provision shall apply.
- (b) **Prohibitions; Exception.**
- (1) It is a violation of this Section:
- a. For any person to intentionally consume any product labeled not for human consumption.
  - b. To intentionally aid another in the violation of this Section.
- (2) It is not a violation of this Section if a person is acting under the written direction and supervision of a licensed medical doctor.
- (c) **Definition.** For purposes of this Section, "consume" or "consumption" shall include eating, smoking, drinking, inhalation or injection.

## **Sec. 11-2-12 Crossing a Police Line.**

No individual shall cross a police or fire line that has been so designated by a banner, signs or other similar identification.

### **Sec. 11-2-13 Harassment.**

- (a) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:
  - (1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.
  - (2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.
- (b) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:
  - (1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
  - (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
  - (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
  - (4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
  - (5) Knowingly permits any telephone under his/her control to be used for any purpose prohibited by this Section;
  - (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

### **Sec. 11-2-14 Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited.**

No person shall have or permit on any premises owned or occupied by him/her any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children. Building or Zoning Code fencing requirements regarding excavations shall be complied with.

### **Sec. 11-2-15 Gambling and Lotteries.**

- (a) **Definition.** "Gambling" shall be as defined in Sec. 945.01, Wis. Stats.
- (b) **Prohibitions.** Except as permitted by the Wisconsin Statutes, all forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village of Elk Mound. Penalties for violations shall be as prescribed by the Wisconsin Statutes. Any law enforcement officer of the Village may seize anything or device found in actual use for

illegal gambling activity and dispose thereof after a judicial determination that such device was used solely for improper gambling or found in actual use for illegal gambling.

*State Law Reference:* Ch. 945, Wis. Stats.

## **Sec. 11-2-16 Obstructing Emergency or Rescue Personnel.**

- (a) **Definitions.** For the purposes of this Section, the following definitions apply to the terms as used herein:
- (1) **Ambulance.** An emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designated, constructed or equipped to transport patients.
  - (2) **Ambulance Service Provided.** A person engaged in the business of transporting sick, disabled or injured persons by ambulance to or from facilities or institutions providing health services.
  - (3) **Ambulance Attendant.** A person who is responsible for the administration of emergency care procedures, proper handling and transporting of the sick, disabled or injured persons, including but not limited to, ambulance attendants and ambulance drivers.
  - (4) **Person.** Any individual, firm, partnership, association, corporation, trust, foundation, company, any governmental agency other than the U.S. government, or any group of individuals, however named, concerned with the operation of an ambulance.
  - (5) **Authorized Emergency Vehicle** means any of the following:
    - a. Police vehicles, whether publicly or privately owned;
    - b. Conservation wardens' vehicles or foresters' trucks, whether publicly or privately owned;
    - c. Vehicles of a fire department or fire patrol;
    - d. Privately owned motor vehicles being used by deputy state fire marshals or by personnel of a full-time or part-time fire department or by members of a volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer;
    - e. Such emergency vehicles of municipal or county departments or public service corporations as are designated or authorized by the local authorities to be authorized emergency vehicles.
    - f. Such emergency vehicles of state departments as are designated or authorized by the heads of such departments to be authorized emergency vehicles;
    - g. Such ambulances, publicly owned, as are designated or authorized by local authorities to be authorized emergency vehicles;
    - h. Such ambulances which are privately owned and are operated by owners or their agents and which vehicles are authorized by the sheriff or others designated by the county board to be operated as emergency vehicles. The sheriff or others

**11-2-16**

designated by the county board may make such authorization which shall be in writing and which shall be effective throughout the state until rescinded. The sheriff or others designated by the county board may designate any owner of ambulances usually kept in the county to operate such vehicles as authorized emergency vehicles. Such written authorization shall at all times be carried on each ambulance used for emergency purposes. The sheriff shall keep a file of such authorizations in his/her office for public inspection, and all other persons permitted to issue authorizations shall file a copy of all authorizations issued with the sheriff who shall keep them on file;

- (6) **Emergency Medical Personnel.** Any emergency medical personnel, ambulance attendant, peace officer or fire fighter, or other person operating or staffing an ambulance or an authorized emergency vehicle.
  - (7) **Bonafide Emergency or Bonafide Request for Emergency Services.** Those circumstances wherein the caller reasonably believes that person(s) and or property may be in actual or potential danger of injury, and in the case of person(s), in danger of illness.
- (b) **Prohibitions.** It is the intent of the Village of Elk Mound, in its adoption of this provision, to protect against the foregoing activities in a manner consistent with that provided by Sec. 941.37, Wis. Stats. The following acts are prohibited and perpetration thereof subjects the violator to penalty as provided by Section 1-1-6:
- (1) Knowingly obstructing any emergency medical personnel in the performance of duties relating to an emergency or rescue;
  - (2) Intentionally interfering with any medical personnel in the performance of duties relating to an emergency or rescue, when it is reasonable that the interference may endanger another's safety;
  - (3) Knowingly making any telephone call to any emergency medical personnel, police agency or fire department for any purpose other than to report a bona fide emergency or to make a bona fide request for emergency services.

## **Sec. 11-2-17 Improper Use of Lodging Establishments.**

- (a) **Definitions.** In this Section:
- (1) **Alcohol beverages** has the meaning given in Sec. 125.02(1), Wis. Stats.
  - (2) **Controlled substances** has the meaning given in Sec. 961.01(4), Wis. Stats.
  - (3) **Lodging establishment** has the meaning given in Sec. 101.22(1m)(n), Wis. Stats.
  - (4) **Underage person** has the meaning given in Sec. 125.02(20m), Wis. Stats.
- (b) **Improper Activities.** Any person who procures lodging in a lodging establishment, and permits or fails to take action to prevent any of the following activities from occurring in the lodging establishment, is subject to the penalties provided in Section 1-1-6.

- (c) **Denial of Lodging.** An owner or employee of a lodging establishment may deny lodging to an adult if the owner or employee reasonably believes that consumption of an alcohol beverage by an underage person, not accompanied by his or her parent, legal guardian or spouse, who has attained the legal drinking age, or illegal use of a controlled substance, may occur in the area of the lodging establishment procured.
- (d) **Deposits.** An owner or employee of a lodging establishment may require a cash deposit or use of a credit card at the time of application for lodging.

## **Sec. 11-2-18 Sexual Offender Residency Restrictions.**

### **(a) Findings, Recitals and Intent.**

#### **(1) Recitals.**

- a. The Village Board of the Village of Elk Mound promulgates this ordinance enactment to protect and improve the health, safety and welfare of the citizens of the Village and particularly its children.
- b. Upon recent review of a published opinion and order in the case of *Hoffman, et al. v. Village of Pleasant Prairie*, Case No. 16-CF-697-JES from the United States District Court, Eastern District of Wisconsin, it is the intent of the Village Board to adopt a Village of Elk Mound sexual offender residency ordinance consistent with this recent court decision.

#### **(2) Findings and Intent.**

- a. Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public health, welfare and safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- b. According to a 1997 report by the United States Department of Justice, sex offenders have high rates of recidivism which are much higher than recidivism rates for other types of violent crimes. Sex offenders are the least likely to be cured and the most likely to re-offend and prey on the most vulnerable members of the community.
- c. While Federal and State Fair Housing Statutes prohibit unlawful discrimination, they do not extend the same protections to a sex offender (as herein defined) with respect to a place of residency (as herein defined) where a Safety Zone (as herein defined) has been established.
- d. It is the intent of this Section to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of

the Village of Elk Mound by creating safety zones around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from loitering or establishing temporary or permanent residence.

- e. This Section is a regulatory measure aimed at protecting the health and safety of children in the Village of Elk Mound from risk that convicted sex offenders may reoffend in locations near their residences. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, day care facilities and other places children frequent.
- f. The Village of Elk Mound finds and declares that repeat sexual offenders who use physical violence and sexual offenders who prey on children are sexual offenders who present an extreme threat to the public safety and health of children. Sexual offenders are very likely to use physical violence and to repeat their offenses. Most sexual offenders commit numerous offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large and the community where they reside, while incalculable, clearly exorbitant. Such persons present a significantly high risk of re-offending once released. As such, the Village hereby establishes regulations which restrict certain offenders from residing or congregating in areas which are at or near where there is a high concentration of children in order to provide better protection for children in the Village by minimizing immediate access and proximity to children and thereby reducing the opportunity and temptation for recidivism.
- g. The Village Board of the Village of Elk Mound has also been advised of the decision of the United States Court of Appeals for the 8th Circuit, in *Doe v. Miller*, 405 F.3d 700 (8th Cir. 2005), which provides in part at page 716 of that decision the following:

"The record does not support a conclusion that the Iowa General Assembly and the Governor acted based merely on negative attitudes toward, fear of, or a bare desire to harm a politically unpopular group. [Citations omitted.] Sex offenders have a high rate of recidivism, and the parties presented expert testimony that reducing opportunity and temptation is important to minimizing the risk of reoffense. Even experts in the field could not predict with confidence whether a particular sex offender will reoffend, whether an offender convicted of an offense against a teenager will be among those who "cross over" to offend against a younger child, or the degree to which regular proximity to a place where children are located



enhances the risk of reoffense against children. One expert in the district court opined that it just "common sense" that limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense. [Citation omitted.] The policy makers of Iowa are entitled to employ such "common sense", and we are not persuaded that the means selected to pursue the State's legitimate interest are without a rational basis . . ."

- (3) **Intent.** It is the intent of this Section not to impose a criminal penalty or punish sex offenders, but rather to serve the Village of Elk Mound's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village by creating areas around locations where children regularly congregate in concentrated numbers, wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence. Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of re-offense, there is a compelling need to protect children where they congregate or play in public places.
- (b) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:
  - (1) **Child/Children.** A person under the age of eighteen (18) for purposes of this Section.
  - (2) **Designated Offender (Sex Offender).** Any person who is required to register under Sec. 301.45, Wis. Stats., or any person who is required to register under Sec. 301.45, Wis. Stats., and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Sec. 301.46(2) and (2m), Wis. Stats. Included in this definition is a person who has been convicted of, or has been found delinquent of, or has been found not guilty by reason of disease or mental defect of a "sexually violent offense" and/or a "crime against children". This definition does not include a person who is released under Sec. 980.45, Wis. Stats., so long as the person is subject to supervised release under Ch. 980, Wis. Stats., the person is residing where he or she is ordered to reside under Sec. 980.08, Wis. Stats., and the individual is in compliance with all court orders issued under Ch. 980, Wis. Stats.
  - (3) **Loitering.** Whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.
  - (4) **Minor.** A person under the age of eighteen (18).
  - (5) **Residence, Permanent.** A place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.
  - (6) **Residence, Temporary.** A place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and

which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent address. A residence may be mobile or transitory.

- (7) **Safety Zones.** Any real property that supports or upon which there exists any facility used for children, including, but not limited to:
- a. A public park, parkway, park facility, recreation area, beach, conservancy area or similar area or facility held open for use by the public for active or passive leisure purposes. Also included are any privately owned neighborhood parks and open spaces where children congregate such as those owned by a homeowners association of a subdivision.
  - b. A swimming pool or splash pad where children swim, wade or splash in a pool or other aquatic facility held open for use by the public or where no lifeguard is on duty and children are known to congregate.
  - c. A library which is open for use by the public where such library includes a collection of material specifically intended for use by children.
  - d. A public recreational trail or path where children regularly walk, ride bicycles, or ride horses, and that is dedicated to the public for recreation purposes or intended for public use.
  - e. A playground which is any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, play structures, sandboxes, and seesaws.
  - f. A school property serving children. Included are any public school as defined by Sec. 115.01(1), Wis. Stats.; a private school as defined by Sec. 115.001(3); a charter school as defined by Sec. 115.001(1), Wis. Stats.; a speciality school, including, but not limited to, a Montessori school, gymnastics academy, dance academy, or music school.
  - g. Athletic fields and facilities used by children for organized and/or informal athletic activities. This includes public athletic fields and private athletic fields if open to the public.
  - h. A movie theater.
  - i. A licensed day care center that has been licensed under Sec. 48.65, Wis. Stats., to provide care and supervision of children, and includes before- and after-school daycare, which has the meaning as defined by Sec. 120.125(1), Wis. Stats.
  - j. A ski hill or sledding hill open to the public.
  - k. Any specialized school or place of instruction for children, including, but not limited to a gymnastics academy, dance academy, music school, or fitness club. Included are "private places" owned by a private entity or person and are open to the public to provide a service and where children regularly congregate, whether supervised or unsupervised.

- l. A public or private golf course or range.
  - m. A place of worship, church, synagogue, mosque, temple or other house of religious worship ("church").
  - n. Any facility for children (which means a public or private school, a group home, as defined in Section 48.02(7), Wis. Stats.; a residential care center for children and youth, as defined in Section 48.02(15d), Wis. Stats.; a shelter care facility, as defined in Section 48.02(17), Wis. Stats.; a foster home, as defined in Section 48.02(6), Wis. Stats.; a treatment foster home, as defined in Section 48.02(17q), Wis. Stats.; a day care center licensed under Section 48.65, Wis. Stats.; a day care program established under Section 120.13(14), Wis. Stats.; a day care provider certified under Section 48.651, Wis. Stats.; or a youth center, as defined in Section 961.01(22), Wis. Stats.
- (8) **Sexually Violent Offense.** Shall have the meaning as set forth in Sec. 980.01(6), Wis. Stats., as amended from time to time.
- (9) **Crimes Against Children.** Shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or federal government, having like elements necessary for conviction, respectively:

940.225(1)	First Degree Sexual Assault
940.225(2)	Second Degree Sexual Assault
940.225(3)	Third Degree Sexual Assault
940.22(2)	Sexual Exploitation by Therapist
940.30	False Imprisonment - Victim Was Minor & Not The Offender's Child
940.31	Kidnapping – Victim Was Minor & Not the Offender's Child
944.02	Rape (prior statute, see now 940.225)
944.06	Incest
944.10	Sexual Intercourse With a Child (prior statute, see now 948.02)
944.11	Indecent Behavior With a Child (prior statute, see now 948.02)
944.12	Enticing Child for Immoral Purposes (prior statute, see now 948.07)
948.02(1)	First Degree Sexual Assault of a Child
948.02(2)	Second Degree Sexual Assault of a Child
948.025	Engaging in Repeated Acts of Sexual Assault of the Same Child
948.05	Sexual Exploitation of a Child
948.055	Causing a Child to View or Listen to Sexual Activity
948.06	Incest With A Child
948.07	Child Enticement
948.075	Use of a Computer to Facilitate a Child Sex Crime
948.08	Soliciting a Child For Prostitution
948.095	Sexual Assault of a Student by School Instructional Staff
948.11(2)(a) or (am)	Exposing a Child to Harmful Material (felony sections)
948.12	Possession of Child Pornography

**11-2-18**

948.13	Convicted Child Sex Offender Working With Children
948.30	Abduction of Another's Child
971.17	Not Guilty By Reason of Mental Disease or An Included Offense
975.06	Sex Crime Law Commitment

(c) **Sexual Offender and Sexual Predator Residency; Prohibitions; Penalties; Exceptions.**

- (1) **Prohibited Location of Residence.** It is unlawful for any designated offender to establish a permanent residence or temporary residence within Five Hundred (500) feet of any Safety Zone property/use enumerated in Subsection (b)(7), or any other place designated by the Village of Elk Mound as a place where children are known to congregate.
- (2) **Prohibited Activity.**
  - a. **Loitering.** It is unlawful for any designated offender to loiter within Five Hundred (500) feet of any Safety Zone property/use enumerated in Subsection (b)(7) or any other place designated by the Village of Elk Mound as a place where children are known to congregate.
  - b. **Holiday Events/Parties.** It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (18) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume, or wearing an Easter Bunny costume or any costume resembling a character known to be popular among children. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this Subsection. "Participation" is to be defined as actively taking part in the event.
- (3) **Measurement of Distance.**
  - a. For purposes of determining the minimum distance separation under this Section, the distance requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outside property line of a protected location designated by the Village of Elk Mound as a Safety Zone property/use per Subsection (b)(7) above where children are known to congregate.
  - b. The Village Clerk-Treasurer shall maintain an official map showing prohibited locations and Safety Zones as defined by this Section. The Village Clerk-Treasurer shall update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones. The map is to be displayed in the Office of the Village Clerk-Treasurer.
- (4) **Violations; Penalties.** A person who violates this Section shall be punished by forfeiture per Section 1-1-6. Each day a person maintains a residence in violation of this Section constitutes a separate violation. The Village of Elk Mound may also seek equitable relief.

- (5) **Exceptions.** A designated offender residing within a prohibited area as described in Subsection (c)(1) does not commit a violation of this Section if any of the following applies:
- a. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Section 301.45, Wis. Stats., before the original effective date of this Section.
  - b. The person is a minor or ward under guardianship and is not required to register under Sections 301.45 or 301.46, Wis. Stats.
  - c. The protected location within Five Hundred (500) feet of the person's permanent residence was opened after the person established the permanent residence and reported and registered the residence pursuant to Sec. 301.45, Wis. Stats.
  - d. The residence is also the primary residence of the person's parents, grandparents, spouse, domestic partner, or children provided that such party established the residence at least one (1) year before the designated offender established the residence at the location.
  - e. In such cases involving a juvenile placed in accordance with this exception, when the juvenile turns eighteen (18) years of age, the juvenile would be allowed to continue to reside at the already established residence.
  - f. The person is a designated offender that has been adjudicated a sexually violent person pursuant to Chapter 980, Wis. Stats., if the designated offender is subject to supervised release under Chapter 980, Wis. Stats., the designated offender is residing where he or she is ordered to reside under Sec. 980.08, Wis. Stats., and the offender is in compliance with all court orders issued under Ch. 980, Wis. Stats.
- (d) **Property Owners Prohibited From Renting Real Property To Certain Sexual Predators and Sexual Offenders; Penalties.**
- (1) **Prohibition.** It is unlawful to let or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this Section, if such place, structure, or part thereof, trailer, or other conveyance is located within Five Hundred (500) feet of a protected location zone described in Subsection (c)(1). A person letting or renting a place or structure shall be deemed to have such knowledge if, at least ten (10) days prior to letting or renting the place or structure, the sex offender's name appears on the Wisconsin Department of Correction's sex offender registry and the person letting or renting the place knew the sex offender would be residing at the subject place or structure.
  - (2) **Violations; Penalties.** A property owner's failure to comply with the provisions of this Subsection shall constitute a violation of this Section, and shall subject the property owner to the Code enforcement provisions in Subsection (c)(4) as provided in this Section. Each day a violation continues shall constitute a separate offense.

(e) **Safety Zones.**

- (1) **Presence Regulated.** A sex offender shall not enter upon or be present upon a property within a Safety Zone under this Section.
- (2) **Safety Zone Exceptions.** A sex offender who enters upon or who is present upon or within a safety zone does not commit a violation of this Subsection if any of the following apply:
  - a. The property also supports a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:
    1. The sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
    2. The sex offender shall not participate in any religious education programs that include individuals under the age of eighteen (18).
  - b. The property also supports a use lawfully attended by a sex offender's natural or adopted children, which a child's use reasonably requires the attendance of the sex offender as the child's parent upon the property, subject to the following condition:
    1. The sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.
    2. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the sex offender.
  - c. The property also supports a polling location in a local, state or federal election, subject to all of the following conditions:
    1. The sex offender is eligible to vote;
    2. The property is the designated polling place for the sex offender; and
    3. The sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is to any member of the electorate, and vacates the property immediately after voting.
  - d. The property also supports a school lawfully attended by a sex offender as a student under which circumstances the sex offender may enter upon the property supporting the school at which the sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.
  - e. The property also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:
    1. The sex offender is on the property only to transact business at the government office or place of business, other than a public library, or attend an official meeting of a governmental body; and

2. The sex offender leaves the property immediately upon completion of the business or meeting.
- (3) **Violations; Penalties.** A person who violates this Subsection shall be punished by a forfeiture per Section 1-1-6. Each day a violation continues shall constitute a separate offense.
- (f) **Injunctions and Other Penalties for Violations.** Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village of Elk Mound from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this Chapter. If an offender establishes a residence in violation of Subsections (c) or (d) above, or enters or is present upon or within a Safety Zone in violation of Subsection (e) above, the Village Attorney may bring an action in the name of the Village of Elk Mound in circuit court to permanently enjoin any such violation as a public nuisance.
- (g) **Appeals.**
  - (1) **Appeals Body.** A designated offender may seek an exemption, waiver or modification from this Section by appealing to the Plan Commission. The above requirements may be waived or modified upon approval of the Village of Elk Mound Plan Commission through appeal by the affected party. Such appeal request shall be made to the Village Clerk-Treasurer, who shall forward the request to the Plan Commission.
  - (2) **Hearing Notice.** The Plan Commission shall hold a public hearing on the appeal. Notice in the form of an agenda shall be published/posted as required by state law and be provided to the members of the Plan Commission, the applicant, and the property owner if not the applicant. Such agenda notice shall be provided a minimum of seven (7) days prior to the hearing date.
  - (3) **Hearing; Considerations.** The Plan Commission shall hold a hearing on each appeal to conduct a risk assessment in each case, during which the Plan Commission may review any pertinent information and may accept oral or written statements from any person. The Plan Commission shall request and receive reports from law enforcement authorities serving the Village on such appeal. The Plan Commission shall consider the public interest as well as the applicant's presentation and concerns, giving the applicant a reasonable opportunity to be heard. The Plan Commission shall also consider any written, emailed or oral statements from any person at the hearing or received in advance of the hearing in the case of written or emailed comments. The Plan Commission shall consider the specific circumstances and facts of each applicant and determine whether the applicant poses a threat public safety if he or she resides at that proposed location. The Plan Commission shall consider factors which may include, but are not limited to, the following:
    - a. Circumstances surrounding the offense.
    - b. Relationship of the offender and victim.
    - c. Presence or use of force with the offense.
    - d. Presence of enticement.

- e. Need to protect the victim or similarly situation individuals.
  - f. Current dangerousness of the offender.
  - g. Proximity in time from the original offense.
  - h. Duration of incarceration and subsequent time out.
  - i. Current supervision status by the Wisconsin Department of Corrections.
  - j. Counseling and treatment history.
  - k. Any criminal offense or regulatory violations committed since the original offense.
  - l. Credibility of the offender/applicant.
  - m. Remorse.
  - n. Proximity of proposed residence to a Safety Zone.
  - o. Support network of offender near proposed residence.
  - p. Alternative options for housing.
- (4) **Determination.** The Plan Commission shall decide by majority vote whether to grant or deny an exemption or modification. An exemption decision may be unconditional or be conditional to a specific address or period of time. After deliberation and determination, the Plan Commission shall forward its written decision to the applicant, Village Clerk-Treasurer, and to the law enforcement authorities serving the Village of Elk Mound for their information and action. The decision of the Plan Commission may be appealed to the circuit court by any aggrieved party within thirty (30) days of the final receipt of the final decision. The review shall be a review by certiorari and the circuit court may affirm or reverse the final decision, or remand the decision to the decision maker for further proceedings consistent with the court's decision.

## **Sec. 11-2-19 Unauthorized Presence on School Property.**

(a) **Unauthorized Presence.**

- (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him/her from attending any school located within the Village of Elk Mound or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.
- (2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.
- (3) "Authorized person" shall include:
  - a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;



- b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
  - c. Any person utilizing a designated area for attending an athletic or other organized school event.
- (b) **Disorderly Conduct on Public School Property.**
- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
  - (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School District's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School District are incorporated as if fully set forth herein.
  - (3) All entrances to the school buildings referred to in Subsection (a) shall be posted by the School Board with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
  - (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a Village citation that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.
- (c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Elk Mound or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.
- (d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Elk Mound.

## **Sec. 11-2-20 E911 Emergency Telephone Call Abuse Prohibited.**

- (a) **Statement of Purpose.** False E911 telephone calls are a threat to public health, safety and welfare in the Village of Elk Mound. Each false E911 call requires a response by emergency response personnel, creates unnecessary expense for the Village, and harms the ability of emergency response personnel to respond to legitimate emergencies.
- (b) **Definitions.** For purposes of this Section, an "emergency" exists when a person reasonably believes that an immediate response by public safety personnel is essential due to the risk or actual occurrence of death or bodily harm; property damage; or any other situation which reasonably requires the immediate response of public safety personnel.
- (c) **Intentionally False E911 Calls Prohibited.**
  - (1) No person shall use the E911 emergency telephone number system for any purpose other than to report an emergency.
  - (2) No person shall use the E911 system to report an emergency knowing that the fact situation which he/she reports does not exist.
  - (3) No person shall call the E911 emergency telephone number system and hang up without reporting an emergency, if, in fact, no emergency exists.
  - (4) No parent, legal guardian or other adult having the care and custody of a person under eighteen (18) years of age shall permit or by insufficient control allow such person to violate the provisions of this Section.
  - (5) Any person violating this Section regarding intentional false E911 calls shall forfeit an amount as prescribed by Section 1-1-6.
- (d) **Unintentional E911 Calls.**
  - (1) Unintentional E911 calls made due to human error, equipment malfunctions, or equipment programming shall be the joint and several responsibility of the person making the unintentional E911 call and the owner, tenant, business occupant, occupant or person in control of a premises or telephone equipment, including wireless cellphones, from which such false E911 calls originate.
  - (2) The person making the unintentional E911 call, or the owner, tenant, business occupant, occupant or person in control of a premises or telephone equipment, including wireless cellphones, from which such false E911 calls originate shall be issued a citation and be subject to a forfeiture as provided in Section 1-1-6. No citation shall be issued nor forfeiture assessed for the first two (2) false E911 calls in a calendar year (January 1 – December 31).

## Title 11 ► Chapter 3

---

# Offenses Against Property

<b>11-3-1</b>	Destruction or Theft of Property Prohibited
<b>11-3-2</b>	Littering Prohibited
<b>11-3-3</b>	Abandoned Refrigerators Prohibited
<b>11-3-4</b>	Theft of Library Material
<b>11-3-5</b>	Damage to Public Property
<b>11-3-6</b>	Retail Theft
<b>11-3-7</b>	Issuance of Worthless Check
<b>11-3-8</b>	Trespass to a Dwelling or Land
<b>11-3-9</b>	Regulation of Smoking
<b>11-3-10</b>	Theft Prohibited
<b>11-3-11</b>	Fraud on Residential Landlords Prohibited
<b>11-3-12</b>	Graffiti
<b>11-3-13</b>	Cemetery Regulations
<b>11-3-14</b>	Damaging or Tampering with Coin Machines
<b>11-3-15</b>	Theft of Cable Television Service; Tampering
<b>11-3-16</b>	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes

### **Sec. 11-3-1 Destruction or Theft of Property Prohibited.**

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the Village of Elk Mound, the School District, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the Village of Elk Mound without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.
- (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).

**11-3-1**

- (c) **Theft of Property or Fuel.** No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without that other person's consent and with intent to deprive the owner permanently of possession of such property. Included within the scope of theft of property is failing to pay for fuel that a person obtained from a fuel vendor.
- (d) **Penalty Provisions.**
  - (1) Any person seventeen (17) years of age or over who violates this Section is subject to a penalty as provided in Section 1-1-6, restitution to the injured party, and the costs of prosecution.
  - (2) Any person fourteen (14) years of age through sixteen (16) years of age shall be subject to a forfeiture not to exceed Twenty-five Dollars (\$25.00) and any other applicable penalty provided by Sec. 938.344, Wis. Stats., as that Section may exist, be amended or changed.
- (e) **Victim Remedies.** Any person or entity injured by a violation of this Section by a minor child shall be advised of the rights and remedies available under Sec. 895.035, Wis. Stats.

*Cross-Reference:* Section 11-3-10.

## **Sec. 11-3-2 Littering Prohibited.**

- (a) **Littering Prohibited.** No person shall throw any object, glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village of Elk Mound, upon property within the Village owned by the School District or upon any private property not owned by them, or upon the surface of any body of water within the Village.
- (b) **Litter From Conduct of Commercial Enterprise.**
  - (1) **Scope.** The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
  - (2) **Litter to be cleaned up.** Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
  - (3) **Litter picked up at litterer's expense.** If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the Village shall arrange to have the same picked up by Village crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be