

## **PORTAGE COUNTY CODE OF ORDINANCES**

### **Chapter 2 PUBLIC PEACE AND ORDER**

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#### **2.1 PRESERVATION OF PUBLIC PEACE AND GOOD ORDER**

##### **2.1.1 DISORDERLY CONDUCT**

Whoever does any of the following may be subject to forfeiture of not more than \$200:

In a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct tends to cause or provoke a disturbance.

##### **2.1.2 BATTERY**

Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another is subject to a forfeiture not to exceed \$1,000.

### **2.1.3 THEFT**

(A) Whoever does any of the following shall incur a forfeiture not to exceed \$300:  
Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the owner's consent and with intent to deprive the owner permanently of possession of such property.

(B) A court to which any forfeiture or deposit is paid hereunder may apply all or part of that amount forfeited to the owner of the property if it concludes justice would be thereby served, as recompense to such owner for damages and inconvenience suffered due to the violation of this section that gave rise to the forfeiture or deposit. Such payment shall not prejudice or affect any other civil action which such owner may have against the party violating this section.

### **2.1.4 PARKING**

Whoever parks or leaves standing any motor vehicle in any parking lot owned or controlled by the Portage County, in violation of any properly posted regulatory sign, and does not possess and display a valid special parking permit, shall incur the appropriate penalty outlined in section 2.16.1 of the code of ordinances. The Special Permits authorized by this Section shall be administered by the Sheriff of Portage County.

### **2.1.5 OPERATION OF A MOTOR VEHICLE WITH EXCESSIVE NOISE**

No person shall engage in the operation of a motor vehicle which tends to create or cause or provoke a disturbance by its use in an unreasonably loud manner. Every person convicted of a violation of this section shall incur a forfeiture not exceeding One Hundred Dollars (\$100.00) together with the costs of prosecution and in default of payment thereof, by incarcerated for contempt in the County Jail of Portage County for a period not exceeding three (3) months.

### **2.1.6 CRIMINAL DAMAGE TO PROPERTY**

(A) Whoever does any of the following shall incur a forfeiture not to exceed \$300:  
Intentionally causes damage to any physical property of another without the person's consent.

(B) A court to which any forfeiture or deposit is paid hereunder may apply all or part of that amount forfeited to the owner of the property if it concludes that justice would be thereby served, as recompense to such owner for damages and inconvenience suffered due to the violation of this section that gave rise to the forfeiture or deposit. Such payment shall not prejudice or affect any other civil action which such owner may have against the party violating this section.

### **2.1.7 ISSUE OF WORTHLESS CHECK**

(A) Whoever does the following shall incur a forfeiture not to exceed \$500.  
Issues any check or other order for the payment of money which, at time of issuance, he or she intends shall not be paid.

(B) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for the payment of money, intended it should not be paid:

- (1) Proof that, at the time of issuance, the person did not have an account with the drawee; or
- (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order; or
- (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order.

(C) A court to which any forfeiture or deposit is paid hereunder may apply all or part of that amount forfeited to the party receiving the worthless check or other order if it concludes justice would be served, as recompense to such party for damages and inconvenience suffered due to the violation of this section that gave rise to the forfeiture or deposit. Such payment shall not prejudice or affect any other civil action which such party may have against the issuer of said check or other order.

### **2.1.8 OBSTRUCTING AN OFFICER**

(A) Whoever does any of the following shall incur a forfeiture not to exceed \$200:  
Knowingly obstructs an officer when such officer is acting in an official capacity and with lawful authority.

(B) In this section:

- (1) "Officer" means peace officer or other public officer or public employee having the authority by virtue of his or her office or employment to take another into custody.
- (2) "Obstructs" includes without limitation knowingly giving false information to the officer with intent to mislead the officer in the performance of his or her duty.

(C) Any person who refuses to identify him or herself when requested by a law enforcement officer upon lawfully being detained or arrested shall incur a forfeiture of no more than \$200.

### **2.1.9 PROHIBITED POSSESSION AND USES OF FIREARMS AND OTHER WEAPONS IN CERTAIN PLACES**

(A) Whoever does any of the following shall incur forfeiture not to exceed \$300:

Possess a firearm or other weapon defined herein in a prohibited place as set forth in this ordinance.

(B) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Firearm* means a shotgun or a rifle, or any weapon made from a rifle or shotgun (modification or otherwise), or any other weapon, including a pistol or revolver, from which a shot is discharged by an explosive or propellant.

*Weapon*, for this ordinance is defined as a handgun, an electric weapon as defined in Wis. Stat.

§ 941.295(1c)(a), a knife other than a switchblade knife under § 941.24, or a billy club. *Wis Stat*  
§ 175.60(1)(j)

(C) Exception. This ordinance shall not apply to city, village, county, state or federal peace officers specifically authorized by law to carry firearms, or to any person fully authorized by the chief of police of any city or village or the sheriff of any county to possess a firearm in performance of their duties, or to members of the armed forces if authorized to carry firearms in the course of their duties.

(D) No firearm or weapon (defined in this ordinance) shall be possessed in a county owned public building, any school or school zone or on any public premises or building within the county provided proper notice is posted as required by law on the premises prohibiting such possession. (Firearms and weapons (defined

by this ordinance) may be possessed however within a vehicle in a properly designated parking lot or area). No weapon (excluding firearms and tasers) as defined in this ordinance shall be possessed on the grounds of any county park or the Green Circle Trail.

(E) A peace officer enforcing this article shall take the firearm or weapon in question into the officer's possession for delivery to the court designated in the citation issued to the defendant for any such offense. The firearm involved in any such offense shall, at the discretion of the court, be held until a bond of \$200.00, for each cited person for each offense, is posted, guaranteeing obedience of this article.

(F) Unlawful threat or brandishment of weapon on the grounds of any county park or the Green Circle Trail.

(a) Whoever does any of the following shall incur a forfeiture not to exceed \$500: Threaten to use, brandish, or display any weapon herein defined in a rude, angry or threatening manner on the grounds of any county park or the Green Circle Trail.

(b) Regulation of weapons including firearms for the area of the Dewey Shooting Range is an exception to this ordinance as set forth in section 6.1.7 of the Portage County Code of Ordinances

### **2.1.10 OPERATION OF EMERGENCY ALARM SYSTEMS: PROHIBITION OF FALSE ALARMS**

(A) Definitions:

(1) "*ALARM SYSTEM*" shall mean any device designed for the detection of an unauthorized entry on premises or for the detection of an unauthorized entry on premises or for alerting others of the commission of an unlawful act or both, or for the detection of a fire, which when activated, produces a signal, visual or audible or both.

(2) "*FALSE ALARM*" means any of the following:

(a) The activation of an alarm system through the negligence of the owner or lessee of an alarm system or his/her employees or agents.

(b) The activation of an alarm system through mechanical failure or malfunction because of improper maintenance of the alarm user.

(c) The activation of an alarm system because of improper installation and/or use of the equipment by the alarm business.

(d) The terminology in this section does not include false alarms caused by weather conditions, violent conditions, or by prior arrangements made for testing of the alarm system.

(B) The owner or lessee of an alarm system which causes a false alarm is subject to the following provisions or forfeitures:

(1) For the first false alarm within one year, the said owner or lessee shall be given a verbal warning by a representative of the Portage County Sheriff's Department.

(2) For the second false alarm within one year, the said owner or lessee shall receive a warning by letter by the Portage County Sheriff's Department.

(3) For the third false alarm within one year, the said owner or lessee shall be subject to a forfeiture not to exceed \$40.00

(4) For each false alarm violation thereafter within one year, the said owner or lessee shall be subject to a forfeiture not to exceed \$75.00.

### **2.1.11 HARASSMENT**

(A) Whoever, with intent to harass or intimidate another person, does any of the following is subject to a forfeiture not to exceed \$1,000.00:

- (1) Strikes, shoves, kicks or otherwise subjects a person to physical contact or attempts or threatens to do the same.
- (2) Engages in a course of conduct or repeatedly commits acts which harass or intimidate a person and which serve no legitimate purpose.

### **2.1.12 SAFE USE AND TRANSPORTATION OF FIREARMS AND BOWS**

- (A) The statutory provisions describing and defining safety regulations regarding the carrying and discharging of firearms in the following state statute, exclusive of any provisions therein relating to any penalty or punishment for violation of said statute, are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference, is required or prohibited by this ordinance. The defenses of the said statute are also adopted. This ordinance shall incorporate section 167.31(2), Wis. Stats. regarding the safe use and transportation of firearms and bows
- (B) The reference to state statutes are to those in effect at the time of the passage of this ordinance and include any future amendments thereto.
- (C.) Whoever violates this ordinance may be required to forfeit not more than \$100, and in default of payment, under the contempt authority of the court, shall be incarcerated in the county jail for a period of 30 days or until the forfeiture is paid, whichever is earlier.

### **2.1.13 THEFT OF LIBRARY MATERIAL**

- (1) In this section:
- (a) “*Archives*” means a place in which public or institutional records are systematically preserved.
  - (b) “*Library*” means any public library: library of an educational, historical or eleemosynary institution, organization or society; archives; or museum.
  - (c) “*Library material*” includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts or other documentary, written or printed materials, regardless of physical form or characteristics belonging to, on loan to, or otherwise in the custody of a library.
- (2) Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be penalized as provided in sub. (5)
- (3) The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library’s procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of the person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material
- (4) An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to the person’s parent or guardian in the case of a minor. The detained person shall be permitted to make phone calls, but shall not be interrogated or searched against his or her will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitled the official, agent or

employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty  
(5) A forfeiture not to exceed \$200 per occurrence.

Revised by Resolution No. 198-2004-2006 on 3-21-06  
Revised by Resolution No. 217-2010-2012 on 9-20-2011  
Revised by Resolution No. 61-2012-2014 on 9-18-2012  
Revised by Resolution No. 7-2016-2018 on 4-26-2016

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## **2.2 PORTAGE COUNTY PUBLIC ASSISTANCE FRAUD**

### **Section 1 FALSE REPRESENTATION: UNLAWFUL ACTIVITIES PUBLIC ASSISTANCE**

(A) No person shall willfully make any false representation with the intent to secure public assistance for himself or herself or for some other person.

(B) No person shall willfully do any act designed to interfere with the proper administration of the public assistance program.

(C) No person shall accept any supplies or articles furnished to another person as general relief in exchange or in payment for any alcoholic beverages.

(D) No dependent person shall sell or exchange supplies or articles furnished that person as assistance with the intent to defraud Portage County. Nor may that dependent person dispose of such supplies or articles in any other way than as directed, with the intent to defraud Portage County. No person may purchase any supplies or articles knowing it to have been furnished to another person as public assistance.

(E) No person in charge of a public assistance program, or any of that person's assistants, shall receive or solicit any commission, or derive or seek to obtain any financial gain through any purchase, sale, disbursement or contract for supplies or other property used in the administration of a public assistance program.

(F) Any person who is originally eligible for assistance who thereafter receives any income or assets or both shall notify the Officer or Agency granting such assistance of the receipt of those assets within ten (10) days after the receipt of those assets if that person continues to receive public assistance. Failure to so notify is a violation of this ordinance.

(G) No dependent person shall use money, checks, share drafts, other drafts, vouchers or any other thing of value furnished to that person as public assistance for purposes other than as directed by the county agency furnishing such relief.

(H) Any person who obtains for himself or herself or for any other person or dependents or both, assistance under Chapter 49 of the Wisconsin Statutes on the basis of facts stated to the county authority charged with the responsibility of furnishing such assistance shall notify the county authorities furnishing assistance within ten (10) days of any change in those facts originally stated by the person. If that person continues to receive assistance based on the originally stated facts, failure to so notify within ten (10) days is a violation of this subsection. The negotiation of a check, share draft or other draft received in payment of such assistance by the recipient or the withdrawal of any funds credited to the recipient's account through the use of any other money transfer technique after any change in such facts which would render the person ineligible for such assistance, had the change in facts been properly reported, shall be prima facie evidence of fraud in any such case and a violation of this subsection.

(l) Any person who accepts a relief voucher granted as relief shall tender the commodities authorized by the relief authorities to the relief recipient. Any person who accepts a relief voucher may not, in lieu of tendering the commodities authorized, refund to the relief recipient cash, nor may such person substitute any alcoholic beverages or cigarettes not authorized by the voucher.

## Section 2 PRESUMPTION

Any person who makes any statement in a written application for aid under Chapter 49 of the Wisconsin Statutes shall be considered to have made an admission as to the existence, correctness and validity of any facts stated, which shall be taken as prima facie evidence against the party making it in any complaint, information or indictment, and in any action or proceeding brought for enforcement or any provision of this ordinance.

## Section 3 DEFINITIONS

Public Assistance as used in this ordinance shall encompass all forms of assistance granted or issued pursuant to Chapter 49 of Wisconsin Statutes, including, but not limited to General Relief (including medical, hospital and dental benefits), Medical Assistance of any type including Badgercare, Interim Assistance, Food Stamps, Child Care, all aid under the "W-2" program and Low Income Energy Assistance Program.

## Section 4 MISCELLANEOUS

(A) Any future amendments, revisions or modifications to s. 49.95, Wis. Stats., are hereby incorporated herein and are intended to be made a part of this ordinance the same as such amendments, revisions or modifications are made to the corresponding state statutes. This ordinance shall take effect and be enforced from and after its proper passage and publication pursuant to Wisconsin Law.

(B) If any provision of this ordinance is declared by the courts to be invalid or unconstitutional or if the application of this ordinance to any person or circumstances is invalid or unconstitutional, the invalidity or unconstitutionality shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

## Section 5 PENALTIES

Any first offense under this ordinance shall be subject to forfeiture of not less than \$250, not including additional mandatory court costs and fees; with any second or subsequent offense, the forfeiture shall be not less than \$1,000, not including additional mandatory court costs and fees. For any failure to pay the assessed forfeiture, the offender may be imprisoned for up to six months by the court. This ordinance may be enforced by citation issued by the Portage County Sheriff's Department of the Portage County Welfare Fraud Investigator. Cash deposits may be made to the Portage County Clerk of Court. A receipt for payment shall be given.

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## **2.3 TRUANCY AND HABITUAL TRUANCY**

### **2.3 PREAMBLE**

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## PREAMBLE

The Portage County Board of Supervisors hereby finds that primary and secondary education of school-age children is vital to their well-being and society at large. Children who are truant from educational programs are at a significantly greater risk to fall behind their peers. A continuing pattern of truancy is likely to cause significant difficulties in becoming productive and stable members of the community. The Portage County Board of Supervisors THEREFORE does hereby adopt this truancy ordinance to encourage school-age children to attend school regularly and to provide incentives to their parents and guardians to assist such children in their education.

**2.3.1 Truancy and habitual truancy.** No person under the age of 18 years who is subject to school attendance laws shall be a truant or an habitual truant as defined in this section.

**2.3.2 Contributing to truancy.** (a) Except as provided in subsection (b) below no person 17 years of age or older shall, by act or omission, knowingly encourage or contribute to the truancy of a person subject to school attendance laws.

(b) Subsection (a) above does not apply to a person who has under his or her control a child who has been sanctioned under Wis. Stat. § 49.26 (1) (h).

(c) An act or omission contributes to a truancy of a pupil whether or not the pupil is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the pupil to be truant.

**2.3.3 Definitions.** For purposes of this section: (a) "Acceptable excuse" means permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled and shall comply with §118.15 and §118.16 (4) Wis. Stats. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

(b) "Truant" means a pupil who is absent from school without an acceptable excuse under Wis. Stat. §118.15 and §118.16 for part or all of any day on which school is held during a school semester.



(c) "Habitual Truant" means a pupil who is absent from school without an acceptable excuse under Wis. Stat. §118.15 and §118.16 for part or all of 5 or more days on which school is held during a school semester.

(d) "Operating Privilege" has the meaning given in Wis. Stat. §340.01.

**2.3.4 Disposition and sanctions for truants.** (a) Dispositions. Upon a finding of truancy, the court is authorized to enter a dispositional order containing some or all of the terms and conditions authorized by §118.163, Wis. Stats., and/or §938.342, Wis. Stats., or their successor statutes, including but not limited to:

(1) An order for the person to attend school.

(2) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stat. §938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(3) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in §938.342(1d)(c).

(4) Any of the above dispositions may be enforced by electronic monitoring.

(b) **Sanctions for violation of dispositional order.** If the court finds that a person violates a condition of his or her dispositional order under §2.3.4, the court may impose as a sanction on the person, including, but not limited to, any combination of the following as authorized by §938.355(6m)(ag), if at the time of disposition the court explained the conditions to the person and informed the person of those possible sanctions:

(1) An order to suspend the person's operating privilege, as defined in Wis. Stat. §340.01(40), or any approval issued under Wis. Stat. ch. 29, including, but not limited to, suspension of the person's hunting, fishing, snowmobiling and ATV privileges for not less than thirty (30) days nor longer than one year. If the person does not hold a valid operator's license under Wis. Stat. ch. 343, other than an instruction permit under Wis. Stat. §343.07 or a restricted license under Wis. Stat. §343.08, on the date of the order issued under this subsection, the court may order the suspension or limitation to begin on the date that the operator's license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years after the date of the order issued under this subsection, whichever occurs first. If the court suspends the person's operating privilege or an approval issued under Wis. Stat. ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the license or approval with a notice stating the reason for and the duration of the suspension.

(2) An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stat. §938.34 (5g). The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in good faith has immunity from civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

(3) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place

of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(4) An order for the person to attend an education program as described in Wis. Stat. §938.34 (7d).

(5) An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. §103.70, authorizing employment of the person.

(6) An order for the person to be placed in a teen court program as described in Wis. Stat. §938.342(1g) (f).

(7) An order for the person to attend school.

(8) A forfeiture of not more than \$500 plus costs, subject to Wis. Stat. §938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(9) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(10) An order placing the person under formal or informal supervision, as described in Wis. Stat. §938.34 (2), for up to one year.

(11) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342(1g)(k). Section 938.34(5g) applies to any community service work performed by a person under this paragraph.

(12) An order for the person's parent, guardian, or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both.

(13) An order for the person's parent or guardian to pay all or part of a forfeiture plus costs assessed under 2.3.4(a)(2) and order the person's parent or guardian to pay all or part of the costs of any program ordered under (12) above or to pay all or part of a forfeiture plus costs assessed under (8) above.

(14) Any of the above sanctions may be enforced by electronic monitoring.

(c) No order to any parent, guardian, or legal custodian under 2.3.4(b)(12) or (13) may be entered until the parent, guardian, or legal custodian is given an opportunity to be heard on the contemplated order of the court. The court shall cause notice of the time, place, and purpose of the hearing to be served on the parent, guardian, or legal custodian personally at least 10 days before the date of the hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases to the court. At the hearing, the parent, guardian, or legal custodian may be represented by counsel and may produce and cross-examine witnesses. A parent, guardian, or legal custodian who fails to comply with any order issued by a court under 2.3.4(b)(12) or (13) may be proceeded against for contempt of court.

**2.3.5 Disposition and sanctions for habitual truants. (a) Dispositions.** Upon a finding of habitual truancy, the court is authorized to enter a dispositional order containing some or all of the terms and conditions authorized by §118.163(2), Wis. Stats., and/or §938.342, Wis. Stats., or their successor statutes, including but not limited to:

(1) An order to suspend the person's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

(2) An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stat. §938.34 (5g). The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this paragraph acting in

good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

(3) An order for the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(4) An order for the person to attend an educational program as described in Wis. Stat. §938.34 (7d), Wis. Stats.

(5) An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. §103.70 authorizing the employment of the person.

(6) An order for the person to be placed in a teen court program as described in Wis. Stat. §938.342 (1g) (f).

(7) An order for the person to attend school.

(8) A forfeiture of not more than \$500.00 plus costs, subject to Wis. Stat. §938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(9) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(10) An order placing the person under formal or informal supervision, as described in Wis. Stat. §938.34 (2) for up to one year.

(11) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.

(12) An order for the person to report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the person is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center as described in s. 938.342(1g)(k). Section 938.34(5g) applies to any community service work performed by a person under this paragraph.

(13) Any of the above dispositions may be enforced by electronic monitoring.

**(b) Sanctions for violation of dispositional order.** If the court finds that a person violates a condition of his or her dispositional order under §2.3.5, the court may impose as a sanction on the person, including, but not limited to, any combination of the following, as authorized by §938.355(6m)(a) Wis. Stats. with the exception of 1g, if at the time of disposition, the court explained the conditions to the person and informed the person of those possible sanctions:

(1) Suspension or limitation on the use of the person's operating privilege as defined under Wis. Stat. §340.01 (40), or of any approval issued under Wis. Stat. ch. 29, including, but not limited to, suspension of the person's hunting, fishing, snowmobiling, and ATV privileges for not less than thirty (30) days nor longer than one year. If the person does not hold a valid operator's license under Wis. Stat. ch. 343, other than an instruction permit under Wis. Stat. §343.07 or a restricted license under Wis. Stat. §343.08, on the date of the order issued under this subsection, the court may order the suspension or limitation to begin on the date that the operator's license would otherwise be reinstated or issued after the person applies and qualifies for issuance or 2 years after the date of the order issued under this subsection, whichever occurs first. If the court suspends the person's operating privilege or an approval issued under Wis. Stat. ch. 29, the court shall immediately take possession of the suspended license or approval and forward it to the department that issued the license or approval with a notice stating the reason for and the duration of the suspension.

(2) Counseling or participation for not more than 25 hours in a supervised work program or other community service work under Wis. Stat. §938.34 (5g).

(3) Detention in the person's home or current residence for a period of not more than 30 days except during hours which the person is attending religious worship or a school program, including travel time required to get to and from the place of worship or school program. The order may permit a person to leave his or her home or current residence if he or she is accompanied by a parent guardian.

(4) Participation after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision, in the social, behavioral, academic, community service, and other programming of a youth report center. Sections 938.355(2) and 938.34(5g) apply to any community service work performed by a juvenile under this subdivision.

(5) An order for the person to attend an educational program as described in Wis. Stat. §938.34 (7d).

(6) An order for the department of workforce development to revoke, under Wis. Stat. §103.72, a permit under Wis. Stat. §103.70, authorizing the employment of the person.

(7) An order for the person to be placed in a teen court program pursuant to Wis. Stat. §938.342 (1g) (f).

(8) An order for the person to attend school.

(9) A forfeiture of not more than \$500 plus costs, subject to Wis. Stat. §938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(10) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(11) An order placing the person under formal or informal supervision, as described in Wis. Stat. § 938.34 (2), for up to one year.

(12) An order for the person's parent, guardian, or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both.

(13) An order for the person's parent or guardian to pay all or part of a forfeiture plus costs assessed under 2.3.5 (a) or (b) and order the person's parent or guardian to pay all or part of the costs of any program ordered under 2.3.5 (a) or (b).

(14) Any of the above sanctions may be enforced by electronic monitoring.

(c) No order to any parent, guardian, or legal custodian under 2.3.5(b) (12) or (13) may be entered until the parent, guardian, or legal custodian is given an opportunity to be heard on the contemplated order of the court. The court shall cause notice of the time, place, and purpose of the hearing to be served on the parent, guardian, or legal custodian personally at least 10 days before the date of the hearing. The procedure in these cases shall, as far as practicable, be the same as in other cases to the court. At the hearing, the parent, guardian, or legal custodian may be represented by counsel and may produce and cross-examine witnesses. A parent, guardian, or legal custodian who fails to comply with any order issued by a court under 2.3.5(b) (12) or (13) may be proceeded against for contempt of court.

**2.3.6 Exception for habitual truants.** (a) A person incurs no liability as a habitual truant under this ordinance if appropriate personnel of the school or school district in which the child is enrolled have not, within one year prior to the commencement of prosecution under this ordinance, done all of the following:

(1) Met with the child's parent or guardian to discuss the child's truancy, or attempted to meet with the child's parent or guardian and received no response or were refused;

(2) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and considered curriculum modifications under Wis. Stat. §118.15 (1) (d);

(3) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his or her grade level; and

- (4) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.
- a. 2.3.6 (a) (1) does not apply if a meeting under Wis. Stat. §118.16 (2) (cg) (3), is not held within 10 school days after the date that the notice under subsection 118.16 (2) (cg) is sent.
- b. 2.3.6 (a) (2), (3), and (4) are not required if the school attendance officer provides evidence that appropriate school personnel were unable to carry out the activity due to the child's absences from school.

**2.3.7 References to statutes.** References in this ordinance are to 2005-2006 Wisconsin Statutes as from time to time amended, modified, repealed or otherwise altered by the State Legislature.

**2.3.8 Severability.** If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Revised on 10-21-08 by Resolution No. 76-2008-2010

[Index for this Chapter](#)

## **2.4 REGULATION OF SEXUALLY ORIENTED BUSINESSES**

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### **2.4.1 Purpose and Findings**

(a) Purpose. It is the purpose of this Ordinance to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of the citizens of Portage County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within Portage County. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this Ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Ordinance to condone or legitimize the distribution of obscene or illegal material.

(b) Findings. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Portage County Board of Supervisors, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *California v. LaRue*, 409 U.S. 109 (1972); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *FW/PBS Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.* 501 U.S. 560 (1991); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *East of River Enterprises v. City of Hudson, Case No. 99-1801 (Unpublished)(Wis. Ct. App., April 11, 2000)*; *East of River Enterprises v. City of Hudson, Case No. 99-2667 (Unpublished)(Wis. Ct. App., Aug. 1, 2000)*; *Ben's Bar, Inc v. City of Somerset*, 316 F.3d 702 7<sup>th</sup> Cir. (2003); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; Seattle, Washington; Bellevue, Washington; St. Cloud, Minnesota - 1994; Minneapolis, Minnesota; St. Paul, Minnesota; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Newport News, Virginia; Cleveland, Ohio; Amarillo, Texas - 1977; Beaumont, Texas; Dallas, Texas; New York, New York Times Square - 1994; St. Croix County, Wisconsin and the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota) and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Preventions.

The Portage County Board of Supervisors finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses lend themselves to ancillary and unlawful and unhealthy activities that are uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

(3) Certain employees of sexually oriented businesses, as defined in this Ordinance, engage in higher incidences of certain types of illicit sexual behavior than employees of other establishments.

(4) Specified sexual activity, as defined in this Ordinance, occurs at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(5) Offering and providing such space described in (4) above encourages specified sexual activity as defined in this Ordinance, which creates unhealthy conditions.

(6) Persons frequent sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

(7) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, chlamydia, human immunodeficiency virus infection (HIV), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

(8) Since 1981 and to the present, there has been an increasing cumulative number of reported cases to the Center for Disease Control (CDC) of acquired immunodeficiency syndrome (AIDS), caused by HIV, in the United States: 600 in 1982; 253,448 in 1992; and 902,223 through December 31, 2003.

(9) The State of Wisconsin Division of Public Health indicated that on July 25, 1986, there were 96 cases of AIDS reported in the state of Wisconsin, including 54 cases that resulted in death. Through 2004, there were 5,690 cumulative cases of AIDS reported in the state of Wisconsin, including 3,100 cases resulting in death.

(10) The number of cases of syphilis in the United States reported to the CDC annually was in excess of 34,000 in 2003.

(11) The number of cases of gonorrhea in the United States reported to the CDC annually was in excess of 330,000 in 2003.

(12) In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some sexually oriented businesses are unhealthy in part because the activities conducted there are unhealthy and, in part because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view adult oriented films.

(16) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located.

(17) Studies of the relationship between sexually oriented businesses and neighborhood property values have found a negative impact on both residential and commercial property values.

(18) There is an increase in the potential for infiltration by organized crime for the purpose of unlawful conduct.

(19) The consumption of alcoholic beverages on the premises of sexually oriented businesses exacerbates the deleterious secondary effects of such businesses on the community. In fact, the Supreme Court has gone so far as to assert that "[c]ommon sense indicates that any form of nudity coupled with alcohol begets undesirable behavior." *Ben's Bar*, 316 F.3d 702, citing *New York State Liquor Auth. v. Bellanca*, 452 U.S. 714, 718 (1981).

(20) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect the substantial government concerns addressed in the above Subsections.

(21) A reasonable licensing procedure is an appropriate mechanism to place the burden of reasonable regulations on the owners, operators and employees of the sexually oriented businesses. Further, such a licensing procedure will place an incentive on the owners, operators and employees to ensure that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of Portage County. It is appropriate to require reasonable assurances that the licensee is the actual owner, operator or employee of the sexually oriented business and fully in possession and/or control of the premises and activities occurring thereon.

(22) Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in sexually oriented businesses.

(23) The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

(24) In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct which this Ordinance is designed to prevent, or who are likely to be witnesses to such conduct.

(25) The general welfare, health, morals and safety of the citizens of Portage County will be promoted by the enactment of this Ordinance.

(26) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses to



minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(27) Each of the foregoing negative secondary effects constitutes a harm which Portage County has a substantial governmental interest in preventing and/or abating. This substantial governmental interest in preventing secondary effects, which is Portage County's rationale for this Ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, Portage County's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in Portage County. Portage County finds that the cases and documentation relied on in this Ordinance are reasonably believed to be relevant to said secondary effects.

#### **2.4.2 Definitions**

For purposes of this Ordinance, the words and phrases defined in the Subsections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context of other Subsections within this Ordinance.

*"Administrator"* means the Portage County Clerk.

*"Adult Bookstore" or "Adult Video Store"* means a commercial establishment which, as one of its principal business activities, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."

A "principal business activity" exists where the commercial establishment:

- (a) has a substantial portion of its displayed merchandise which consists of said items, or
- (b) has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- (c) has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
- (d) derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items, or
- (e) maintains a substantial section of its interior business space for the sale or rental of said items; or
- (f) maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or "specified anatomical areas."

*“Adult Cabaret”* means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- (1) persons who appear semi-nude; or
- (2) live performances that are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas;” or
- (3) films, motion pictures, digital video disc, videocassettes, slides, or other photographic reproductions which are characterized by the exhibition or display of “specified sexual activities” or “specified anatomical areas.”

*“Adult Motel”* means a hotel, motel or similar commercial establishment, which:

- (1) offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, digital video discs, video cassettes, slides or other photographic reproductions, which are characterized by the depiction of “specified sexual activities” or “specified anatomical areas;” and has a sign visible from the public right of way which advertises the availability of these adult type of photographic reproductions; or
- (2) offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (3) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

*“Adult Motion Picture Theater”* means a commercial establishment where films, motion pictures, digital video discs videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five persons for any form of consideration.

*“Characterized by”* means the dominant or principal theme of the object referenced. For instance, when a phrase in this Ordinance refers to films which are distinguished or characterized by an emphasis upon the exhibition or display of “specified sexual activities” or “specified anatomical areas,” the films so described are those which the dominant or principal character and theme are the exhibition or display of “specified sexual activities” or “specified anatomical areas.”

As applied in this Ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

*“County Board”* means the County Board of Portage County, Portage County, Wisconsin.

*“Employ, Employee, and Employment”* describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include:

(1) a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises; or

(2) a person performing any type of service on the premises for 7 business days or less within any calendar month.

*“Escort”* means a person who, for consideration, and for another person, agrees or offers to privately model lingerie or to privately perform a striptease.

*“Escort Agency”* means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

*“Establish or Establishment”* means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business; or

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

(c) The addition of any sexually oriented business to any other existing sexually oriented business; or

(d) the relocation of any sexually oriented business.

*“Influential Interest”* means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates the sexually oriented business.

*“Licensee”* means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In the case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.

*“Nudity or State of Nudity”* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola or the showing of the covered male genitals in a discernibly turgid state even if completely and opaquely covered.

*“Operate or Cause to Operate”* means to cause to function or to put or keep in a state of doing business.

*“Operator”* means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

“*Person*” means an individual, proprietorship, partnership, corporation, association, or other legal entity.

“*Premises*” means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a sexually oriented business license.

“*Regularly*” means and refers to the consistent and repeated doing of the act so described.

“*Semi-Nude*” or “*State of Semi-Nudity*” means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

“*Semi-Nude Model Studio*” means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

(a) By a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and

(2) Where, in order to participate in a class a student must enroll at least three business days in advance of the class.

“*Sexual Device*” means any three (3) dimensional object designed and marketed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

“*Sexual Device Shop*” means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this

definition be construed to include commercial establishments which do not restrict access to their premises by reason of age.

“*Sexual Encounter Center*” shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer with or without any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude, or a place where two (2) or more persons may congregate, associate, or consort for the purpose of “specified sexual activities.” The definition of sexual encounter center or any sexually oriented business shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

“*Sexually Oriented Business*” means an “adult bookstore or adult video store,” an “adult cabaret,” an “adult motel,” an “adult motion picture theater,” an “escort agency,” a “semi-nude model studio,” a “sexual device shop,” or a “sexual encounter center.” As applied in this Ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.

“*Specified Anatomical Areas*” means and includes:

(a) Less than completely and opaquely covered: human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

“*Specified Criminal Activity*” means:

(a) Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

(1) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; distribution of a controlled substance or any similar offenses to those described above under the criminal or penal code of other states or countries.

(b) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

(c) Any offense in another jurisdiction that, had the predicate act(s) been committed in Wisconsin, would have constituted any of the foregoing offenses.

“*Specified Sexual Activity*” means any of the following:

(1) The fondling of another person’s genitals, pubic region, anus, or female breasts;

(2) Actual or simulated sex acts, normal or perverted, including intercourse, oral copulation, masturbation, sodomy, bestiality, or flagellation;

(3) Excretory functions as part of, or in connection with, any of the activities set forth in Subsections (1) and (2), above.

“*Substantial*” means at least thirty-five percent (35%) of that which is referenced.

“*Transfer of Ownership or Control*” of a sexually oriented business shall mean any of the following:

- (a) The sale, lease, or sublease of the business;
- (b) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
- (c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

“*Viewing Room*” shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.

### **2.4.3 Classification**

The classifications for sexually oriented businesses shall be as follows:

- (a) Adult bookstore or adult video store;
- (b) Adult cabaret;
- (c) Adult motel;
- (d) Adult motion picture theater;
- (e) Escort agency;
- (f) Semi-nude model studio;
- (g) Sexual device shop;
- (h) Sexual encounter center.

### **2.4.4 License Required**

(a) *Business License*. It shall be unlawful for any person to operate a sexually oriented business in Portage County without a valid sexually oriented business license.

(b) *Employee License*. It shall be unlawful for any person to be an “employee,” as defined in this Ordinance, of a sexually oriented business in Portage County without a valid sexually oriented business employee license, except that a person who is a licensee under a valid sexually oriented business license shall not be required to also obtain a sexually oriented business employee license.

(c) *Application*. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the Portage County Clerk a completed application made on a form provided by the Portage County Clerk. A sexually oriented business may designate an individual with an influential interest in the business to file its application for a sexually oriented business

license in person on behalf of the business. The application shall be signed as required by Subsection (d) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in this Subsection (c), accompanied by the appropriate licensing fee:

- (1) The applicant's full legal name and any other names used by the applicant in the preceding five (5) years.
- (2) Current business address or another mailing address for the applicant.
- (3) Written proof that the individual is at least eighteen (18) years of age, their height, weight, and hair and eye color. Applicant's fingerprints shall be provided on a form provided by the police or sheriff's department. Written proof of age may be in the form of either (i) a copy of a birth certificate and current photo, (ii) a current driver's license with picture, or (iii) other picture identification document issued by a governmental agency and demonstrating proof of age.
- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
- (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
- (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this Ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
- (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):
  - (i) been declared by a court of law to be a nuisance; or
  - (ii) been subject to a court order of closure or padlocking.
- (8) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is or will be located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with the stage, booth, and/or room configuration requirements of this Ordinance, shall submit a diagram indicating that the setup and configuration of the premises meets the requirements of the applicable regulations.

The information provided pursuant to this Subsection (c) shall be supplemented in writing by personal service or certified mail, return receipt requested to the Portage County Clerk within ten (10) business days of a change of circumstances which would render the information originally submitted false or incomplete.

(9) The Portage County Sheriff's Department shall conduct a reasonable investigation of every applicant to verify the accuracy of all personal and background information required to be submitted pursuant to this ordinance and report the results of such investigation to the Portage County Clerk.

(10) The Portage County Planning and Zoning Department shall verify the accuracy of all sketches and diagrams required to be submitted pursuant to this ordinance as well as compliance with all interior and exterior dimensions including setback and distance requirements as set forth by this ordinance.

(d) *Signature.* A person who seeks a sexually oriented business employee license under this Subsection shall sign the application for a license. If a person who seeks a sexually oriented business license under this Subsection is an individual, he or she shall sign the application for a license as applicant. If a person who seeks a sexually oriented business license is other than an individual, each person with any interest over five percent (5%) in the sexually oriented business or in a legal entity that controls the sexually oriented business shall sign the application for a license as applicant. Each applicant must be qualified under this Ordinance and each applicant shall be considered a licensee if a license is granted.

If the applicant is a corporation, the application shall specify the name of the corporation, the date and state of incorporation, the names and all information required in (c) above of all shareholders of the corporation owning more than five percent (5%) of the stock in said corporation, all officers and directors of the corporation, and the name and address of the registered agents.

If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest, the application shall state the names, and all information required in (c) above, of all persons having a financial interest of more than five percent (5%) in the partnership, joint venture or other type of organization.

(e) The information provided by an applicant in connection with an application for a license under this Ordinance shall be maintained by the office of the Portage County Clerk.

#### **2.4.5 Issuance of License**

(a) *Business License.* Upon the filing of a completed application for a sexually oriented business license, the Portage County Clerk shall immediately issue a temporary license to the applicant if the completed application is from a preexisting sexually oriented business that is lawfully operating in Portage County and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business license. The temporary license shall expire upon the final decision of Portage County to deny or grant an annual license. Within twenty (20) business days of the filing of a completed sexually oriented business license application, the Portage County Clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The Portage County Clerk shall issue a license unless:

(1) An applicant is less than eighteen (18) years of age.

(2) An applicant has failed to provide information required by this Ordinance for issuance of a license or has falsely answered a question or request for information on the application form.



(3) The license application fee required by this Ordinance has not been paid.

(4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this Ordinance or is not in compliance with locational requirements of this Ordinance or the locational requirements of any other part of the Portage County Code of Ordinances.

(5) Any sexually oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to an order of closure or padlocking.

(6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Ordinance.

(b) *Employee License.* Upon the filing of a completed application for a sexually oriented business employee license, the Portage County Clerk shall immediately issue a temporary license to the applicant if the applicant seeks licensure to work in a licensed sexually oriented business and the completed application, on its face, indicates that the applicant is entitled to an annual sexually oriented business employee license. The temporary license shall expire upon the final decision of Portage County to deny or grant an annual license. Within twenty (20) business days of the filing of a completed sexually oriented business employee license application, the Portage County Clerk shall either issue a license to the applicant or issue a written notice of intent to deny a license to the applicant. The Portage County Clerk shall issue a license unless:

(1) The applicant is less than eighteen (18) years of age.

(2) The applicant has failed to provide information as required by this Ordinance for issuance of a license or has falsely answered a question or request for information on the application form.

(3) The license application fee required by this Ordinance has not been paid.

(4) Any sexually oriented business in which the applicant has had an influential interest, has in the previous five (5) years (and at a time during which the applicant had the influential interest):

(i) been declared by a court of law to be a nuisance; or

(ii) been subject to an order of closure or padlocking.

(5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this Ordinance.

(c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it

may be read at any time that the business is occupied by patrons or is open to the public. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.

#### **2.4.6 Fees**

(a) The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: three hundred dollars (\$300) for the initial fee for a sexually oriented business license and one hundred fifty dollars (\$150) for annual renewal; one hundred dollars (\$100) for the initial sexually oriented business employee license and fifty dollars (\$50) for annual renewal.

#### **2.4.7 Inspection**

(a) Sexually oriented businesses and sexually oriented business employees shall permit law enforcement officers and any other federal, state, county or municipal agency or employee in the performance of any function connected with the enforcement of this Ordinance or any federal, state, county or municipal law, to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, during those times when the sexually oriented business is occupied by patrons or is open to the public. This Subsection shall be narrowly construed to authorize reasonable inspections of the licensed premises pursuant to this Ordinance, but not to authorize a harassing or excessive pattern of inspections.

(b) The provisions of this Subsection do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

#### **2.4.8 Expiration and Renewal of License**

(a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in this Ordinance.

(b) Application for renewal of an annual license should be made at least ninety (90) calendar days before the expiration date of the current annual license, and when made less than ninety (90) calendar days before the expiration date, the expiration of the current license will not be affected.

#### **2.4.9 Suspension**

(a) The Portage County Clerk shall issue a written notice of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) calendar days if the Portage County Clerk makes an initial determination that the sexually oriented business licensee has knowingly violated this Ordinance or has knowingly allowed an employee or any other person to violate this Ordinance.

(b) The Portage County Clerk shall issue a written notice of intent to suspend a sexually oriented business employee license if the Portage County Clerk makes an initial determination that the employee has knowingly violated this Ordinance.

#### **2.4.10 Revocation**

(a) The Portage County Clerk shall issue a written notice of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the Portage County Clerk makes an initial determination that the licensee knowingly violated this Ordinance or has knowingly allowed an employee or any other person to violate this Ordinance and a suspension of the licensee's license has been in effect at any time within the previous twelve (12) month period.

(b) The Portage County Board of Supervisors shall revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

(1) The licensee has knowingly given false information in the application for the sexually oriented business license or the sexually oriented business employee license, material facts were omitted from the application or the information required to be provided pursuant to this Ordinance was not supplemented in writing by personal service or certified mail, return receipt requested, to the Portage County Clerk within ten (10) business days of a change of circumstances which would render the information originally submitted false or incomplete; or

(2) The licensee has knowingly or recklessly engaged in or allowed possession, use, consumption or sale of any intoxicating liquor, cereal malt beverage, other alcoholic beverage or controlled substance on the premises of the sexually oriented business; or

(3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises of the sexually oriented business; or

(4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or

(5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the premises of the sexually oriented business. This Subsection will not apply to an adult motel, unless the licensee knowingly allowed sexual activities to occur in exchange for money or in a public place or within public view; or

(6) The licensee, operator or any employee of the licensee, violates any provisions of this Ordinance or any rules or regulation adopted by the County Board pursuant to this Ordinance; provided, however, that in the case of a first offense by a licensee where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) calendar days, if the County Board shall find that the licensee had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge; or

(7) The licensee becomes ineligible to obtain a license or permit; or

(8) Any fee or charge required to be paid by this Ordinance is not paid; or

(9) The licensee has knowingly allowed or permitted an intoxicated person or persons to enter or remain in the establishment.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in this Ordinance, the Portage County Board of Supervisors revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

#### **2.4.11 Hearing; Denial, Suspension, Revocation, and Non-Renewal; Appeal**

(a) When the Portage County Clerk issues a written notice of intent to deny, suspend, revoke or not renew a license, the Portage County Clerk shall immediately send such notice, which shall include the specific grounds under this Ordinance for such action, to the applicant or licensee (respondent) by personal service or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Portage County Clerk for the respondent. The notice shall specify a date, not less than ten (10) business days nor more than twenty (20) business days after the date the notice is issued, on which the Portage County Board of Supervisors or in the alternative, the Judicial/General Government Committee or other committee of the County Board as designated by the Portage County Board of Supervisors, shall conduct a hearing on the Portage County Clerk's written notice of intent to deny, suspend, revoke or not renew the license.

At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Portage County clerk's witnesses. The Portage County Clerk shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, revoking or not renewing the license. The hearing shall take no longer than two (2) business days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The Portage County Board of Supervisors shall issue a written decision, including specific reasons for the decision pursuant to this Ordinance, to the respondent within five (5) business days after the hearing.

If the decision is to deny, suspend, revoke or not renew the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the Portage County Board of Supervisor's decision finds that no grounds exist for denial, suspension, revocation or non-renewal of the license, the Portage County Board of Supervisors shall, contemporaneously with the issuance of the decision, order the Portage County Clerk to immediately withdraw the intent to deny, suspend, revoke or not renew the license and to notify the respondent in writing by personal service or certified mail of such action. If the respondent is not yet licensed, the Portage County Clerk shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging the Portage County Board of Supervisor's decision is initiated, the Portage County Board of Supervisors shall prepare and transmit to the court a transcript of the hearing within ten (10) business days after receiving written notice of the filing of the court action. The Portage County Board of Supervisors shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is lawfully operating as a

sexually oriented business, or any sexually oriented business employee that is lawfully employed as a sexually oriented business employee, on the date on which the completed business or employee application, as applicable, is filed with the Portage County Clerk: upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin Portage County's enforcement of the denial, suspension, revocation or non-renewal, the Portage County Clerk shall immediately issue the respondent a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin Portage County's enforcement.

(c) The procedure set forth above shall be followed for all appeals and reviews of a denial, suspension, revocation, and non-renewal of a license. However, to the extent that any provision set forth in Chapter 68 of the Wisconsin Statutes can be construed or interpreted to afford a person greater rights or greater due process protections than above, that provision shall control.

#### **2.4.12 Transfer of License**

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application. Violation of this Subsection shall automatically and immediately revoke the license.

#### **2.4.13 Hours of Operation**

No sexually oriented business shall be open between the hours of 2:00 a.m. and 8:00 a.m.

#### **2.4.14 Physical Layout of Sexually Oriented Business**

(a) A person who operates or causes to be operated a sexually oriented business shall ensure that the interior of the premises is configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises.

(b) A person who operates or causes to be operated a sexually oriented business which exhibits in a booth or viewing room on the premises, through any mechanical or electronic image-producing device, photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following additional requirements.

(1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, booths or viewing rooms, overhead lighting fixtures and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain equipment for displaying photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations or reproductions. The diagram shall also designate the place at which the license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Portage County Clerk may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(2) It shall be the duty of the operator, and of any employee present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employee present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.

(4) It shall be the duty of the operator, and of any employee present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.

(5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:

(i) That the occupancy of viewing rooms less than 150 square feet is limited to one person.

(ii) That sexual activity on the premises is prohibited.

(iii) That the making of openings between viewing rooms is prohibited.

(iv) That violators will be required to leave the premises.

(v) That violations of these regulations are unlawful.

(6) It shall be the duty of the owner and operator and it shall also be the duty of any employee present on the premises, to enforce the regulations articulated in (5)(i) through (iv) above.

(7) It shall be the duty of the owner and operator, and it shall also be the duty of any employee present on the premises, to ensure that the booth viewing room specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(8) It shall be the duty of the owner and operator, and it shall also be the duty of any employee present on the premises, to maintain the premises in a clean and sanitary manner at all times.

(9) It shall be the duty of the owner and operator, and it shall also be the duty of any employees present on the premises, to insure compliance of the sexually oriented business and its patrons with the provisions of this Ordinance.

(c) It shall be unlawful for a person having a duty under this Subsection to knowingly fail to fulfill that duty. Every act or omission by an employee constituting a violation of the provisions of this Subsection shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission. Any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.

#### **2.4.15 Loitering, Exterior Lighting, Visibility, and Monitoring Requirements**

(a) It shall be the duty of the operator of a sexually oriented business to: (a) post conspicuous signs stating that no loitering is permitted on such property; (b) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and (c) provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.

(b) It shall be unlawful for a person having a duty under this Subsection to knowingly fail to fulfill that duty. Every act or omission by an employee constituting a violation of the provisions of this Subsection shall be deemed the act or omission of the licensee if such act or omission occurs either with the authorization, knowledge, or approval of the licensee, or as a result of the licensee's negligent failure to supervise the employee's conduct, and the licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission. Any act or omission of any employee constituting a violation of the provisions of this Ordinance shall be deemed the act or omission of the licensee for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed.

(c) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.

#### **2.4.16 Exclusions**

The provisions of this Ordinance do not apply to the following establishments: theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances. While expressive live nudity may occur within these establishments, this Ordinance

seeks only to minimize and prevent the secondary effects of sexually oriented businesses on the community. Negative secondary effects have not been associated with the establishments referenced in this Subsection.

#### **2.4.17 Penalties and Enforcement**

(a) The provisions of this Ordinance shall be enforced under the direction of the Portage County Board of Supervisors, through the Portage County Corporation Counsel Office and the Portage County Sheriff's Department. The Sheriff's Department shall immediately report any suspected violations of this ordinance to the Portage County Clerk. Citations may be issued by the Portage County Sheriff's Department pursuant to Portage County Ordinance Section 5.1 to impose forfeitures. The amount of the citation shall be as stated in Section 5.1 and in accordance with any amendments thereto. The issuance of a citation under this subsection shall not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection.

(b) The Portage County Corporation Counsel, or other legal counsel retained by Portage County, is hereby authorized to institute civil proceedings necessary for the enforcement of this Ordinance to prosecute, restrain, or correct violations hereof. This includes commencing a civil action seeking the imposition of a forfeiture as set forth in (c). Any proceedings, including injunction, shall be brought in the name of Portage County, provided however, that nothing in this Subsection and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by any Federal, State, Local or other provision of this Ordinance, or any of the laws in force in Portage County, or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred. The court may utilize any lawful authority to compel enforcement of this Ordinance, including contempt.

(c) Any civil proceedings commenced pursuant to (b) above which are necessary for the enforcement of this Ordinance, may be commenced against any person, firm, company, corporation, agent, employee, contractor or subcontractor who violates any term of this Ordinance and shall subject the violator to a forfeiture of one-thousand (\$1000) dollars, together with the costs of any enforcement action. Every violation and every day of violation shall constitute separate offenses.

#### **2.4.18 Applicability of Ordinance to Existing Businesses**

All existing sexually oriented businesses and sexually oriented business employees are hereby granted a *de facto* temporary license to continue operation or employment for a period of ninety (90) calendar days following the effective date of this Ordinance. By the end of said ninety (90) calendar days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the requirements of this Ordinance.

#### **2.4.19 Prohibited Conduct**

It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations:

(a) It shall be a violation of this Ordinance for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.



(b) It shall be a violation of this Ordinance for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.

(c) It shall be a violation of this Ordinance for any employee who appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business unless it is for the purpose of protecting the person's health, safety or welfare.

(d) It shall be a violation of this Ordinance for any person to sell, use, or consume alcoholic beverages, narcotics or illegal drugs on the premises of a sexually oriented business.

(e) No employee of a sexually oriented business shall allow any minor to loiter around or to frequent a sexually oriented business. It shall be the duty of the licensee of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours and to prevent any person under the age of eighteen (18) years of age from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

(1) a valid operator's, commercial operator's or chauffeur's driver's license; or

(2) a personal identification card issued by the State of Wisconsin reflecting that such person is eighteen (18) years of age or older.

(f) It shall be prohibited to allow or permit any intoxicated person or persons to enter or remain in the establishment. A sign in a form to be prescribed by the Portage County Clerk, and summarizing the provisions of Subsections (a), (b), (c), (d), (e) and (f), shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

#### **2.4.20 Scierter Required to Prove Violation or Business Licensee Liability**

This Ordinance does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this Ordinance. Notwithstanding anything to the contrary, for the purposes of this Ordinance, an act by an employee that constitutes grounds for suspension, revocation or non-renewal of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this Ordinance, or for purposes of license denial, suspension, revocation or non-renewal, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

#### **2.4.21 Failure of Portage County to Meet Deadline Not to Risk Applicant/Licensee Rights**

In the event that a Portage County official is required to act pursuant to this Ordinance within a prescribed time, and fails to act within the time prescribed, said failure shall not prevent the exercise of constitutional

rights of an applicant or licensee. If the act required of the Portage County official under this Ordinance, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by Portage County of an applicant's or licensee's application for a sexually oriented business license or a sexually oriented business employee license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for Portage County's action has passed.

#### **2.4.22 Location of Sexually Oriented Businesses**

(a) Sexually oriented businesses shall not be required to obtain a conditional use permit or special exception use permit.

(b) It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business in Portage County, unless said sexually oriented business is at least:

(1) 1500 feet from any parcel occupied by another sexually oriented business or by a business or a premises that in any manner sells or disperses alcohol or is licensed pursuant to the alcoholic beverage control regulations of Portage County or the State of Wisconsin; and

(2) 1000 feet from any land which is residentially zoned or designated as a residential land use category in the Portage County comprehensive plan at the time such application is made, or from any residential dwelling, including, but not limited to, houses, apartments, condominiums, assisted living facilities, community based residential facilities, and nursing homes; and

(3) 1000 feet from any pre-existing cemetery or place of worship, including, but not limited to, any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities; and

(4) 1500 feet from any public or private educational facility, including, but not limited to, any child day care establishments, nursery schools, preschools, kindergartens, elementary schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges and universities. "School" includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

(5) 1,000 feet from any private or public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis court, pedestrian/bicycle path, wilderness area, campground including any area designated as a gathering place for children under 18 years of age, or other similar private or public land within Portage County.

(c) For the purpose of this Subsection, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in Subsection (b) above. The presence of a county, city, village, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Subsection.

#### **2.4.23 Nonconforming Uses**

Notwithstanding anything to the contrary in the Portage County Code of Ordinances, a nonconforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this Ordinance, may continue to operate for two (2) years following that date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said two (2) years, the use will no longer be recognized as a lawful nonconforming use, provided that a nonconforming sexually oriented business may apply for one or more six-month extensions of the original two-year period upon a showing of financial hardship. An application for an initial extension based upon financial hardship (“hardship exception”) shall be made at least sixty (60) calendar days before the conclusion of the aforementioned two-year (2-yr.) period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least sixty (60) calendar days before the conclusion of the non-conforming sexually oriented business’s current extension period.

#### **2.4.24 Hardship Extensions**

Procedure for seeking hardship extension. An application for a hardship extension shall be filed in writing with the Portage County Clerk, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. Within ten (10) business days after receiving the application, the Portage County Clerk shall schedule a public hearing on the application before the Portage County Judicial/General Government Committee which public hearing shall be conducted within thirty (30) calendar days after the Portage County Clerk’s receipt of the application. Notice of the time and place of such public hearing shall be published at least ten (10) business days before the hearing in a newspaper of general circulation published within Portage County, and shall contain the particular location for which the hardship extension is requested.

The Portage County Judicial/General Government Committee shall issue a written decision within ten (10) business days after the public hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing that the nonconforming sexually oriented business is unable to recoup its investments, made prior to the effective date of this Ordinance, in its current location unless the hardship extension is granted.

#### **2.4.25 Additional Regulations for Escort Agencies**

(a) An escort agency shall not employ any person under the age of eighteen (18) years.

(b) A person commits an offense under this Subsection if the person acts as an escort, or agrees to act as an escort, for any person under the age of eighteen (18) years.

#### **2.4.26 Severability**

This Ordinance and each Subsection and provision of said Ordinance hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said Ordinance, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and

provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this Ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this Ordinance.

#### **2.4.27 Repeal and Recreation**

Section 2.4 of the Portage County Code of Ordinances, is hereby repealed and recreated as set forth in this Ordinance.

#### **2.4.28 Effective Date**

This Ordinance shall become effective immediately upon passage by the Portage County Board of Supervisors.

#### **2.4.29 Jurisdiction**

This ordinance shall apply in all municipalities except those having their own ordinance regulating sexually oriented businesses.

Dated this 15<sup>th</sup> day of May, 2007.

SIGNED:

\_\_\_\_\_  
O. Philip Idsvoog  
Portage County Board Chair

ATTEST:

\_\_\_\_\_  
Shirley Simonis  
Portage County Clerk

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### **2.5 PROHIBITION AGAINST THE HARBORING OF MINOR RUNAWAYS**

#### **2.5.1 DEFINITIONS**

In this section:

- a. "Child" means a person who has not attained the age of 18.
- b. "County" means Portage County, Wisconsin.
- c. "Runaway" means any minor child away from home without permission from his/her parent, legal custodian, or representative of the Portage County Health and Human Services Department or other similar public agency and shall include minors whose permanent residence is outside Portage County.

#### **2.5.2 VIOLATION**

A person shall be in violation of this ordinance when he/she:

- a. Knowingly allows, permits, abets, transports, provides money or other useful instruments, or boards a runaway at his/her residence, property, place of business, or in a vehicle owned, controlled or operated by that person, where the person knows or should have known the child to be a runaway.

b. Refuses to provide information to law enforcement officers, or obstructs by providing false or untrue information, when questioned about a runaway child, which information was known to them at the time and would assist in the apprehension of such runaway child.

### **2.5.3 DEFENSES AND JURISDICTION**

a. It shall not be a defense that the parent, legal custodian, or public officer has not notified any law enforcement agency that the child was a runaway, or that the parent, legal custodian, or public officer knows of the child's location.

b. Portage County shall retain or assume jurisdiction when a runaway who is a resident of Portage County leaves this county, or when a runaway who is not a resident of this county enters or passes through Portage County.

c. A person who immediately and properly notifies a parent or law enforcement that he/she knows or suspects a child to be a runaway shall not be in violation of this ordinance if he/she allows the child to remain in a place or transports the child to the parent or legal guardian, or closest law enforcement agency.

d. No person properly operating or staffing a licensed runaway home shall be subject to this ordinance so long as they comply with the requirements defined in section 48.227 of the Wisconsin Statutes.

### **2.5.4 PENALTY**

Any person who violates this ordinance shall be required to forfeit not less than \$50.00 nor more than \$200.00, together with all legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed thirty (30) days.

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## **2.6 REGULATION OF ABANDONED VEHICLES**

### **2.6.1 DEFINITIONS**

Unless specifically set forth otherwise in a section or subsection, the definitions of terms for purposes of this Chapter shall be the same AS THOSE SET FORTH IN Chapter 340 of the Wisconsin Statutes. The word "person" as used throughout the ordinance shall be deemed to include any individual, partnership, firm, or corporation. "Vehicle" shall include automobile, bicycle, all-terrain vehicle, moped, motor bicycle, motor bus, motor vehicle, recreational vehicle, road machinery, road tractor, semi-trailer, truck tractor, or trailer. A snowmobile shall not be considered a vehicle except for purposes made specifically applicable by Statute.

### **2.6.2 ABANDONED VEHICLES PROHIBITED**

No person shall leave unattended any vehicle on any public highway, private or public property or in or on any waters within the County of Portage, for more than forty-eight (48) hours, unless that person has obtained the permission of the landowner or the Portage County Sheriff or his designee. A vehicle is presumed to be abandoned if it has been left unattended without the permission of the property owner or the Portage County Sheriff, or representative for more than forty-eight (48) hours or if other indicia of abandonment is apparent.

### **2.6.3 IMPOUNDMENT**

Any vehicle in violation of the Chapter shall be impounded by the Portage County Sheriff or a representative at a suitable place of impoundment. The Sheriff of Portage County shall establish and maintain such a suitable place of impoundment. To remove any vehicle from private property, the consent of the property owner or an order of the Court must be obtained.

### **2.6.4 DISPOSAL**

(A) If it is deemed by the Sheriff that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the County prior to the expiration of the impoundment period in subparagraph (B) after it is determined by the Sheriff that the vehicle is not stolen or otherwise needed for evidence or other reason, and after reasonable efforts are made to locate and notify the owner and any lienholders.

(B)(1) Any vehicle which has been impounded under this ordinance and not disposed of under subparagraph (A) shall be retained in storage for a minimum of ten (10) days after certified mail notice has been sent to the owner and lien holder. Such notice shall set forth the year, make, model, and serial number of the abandoned vehicle, the place where the vehicle is being held, shall inform the owner and any lien holder of their right to retain the vehicle and the process by which recovery can be made. The notice shall state that the failure of the owner or lien holder to exercise their rights to reclaim the vehicle under this section shall be deemed a waiver of all rights, title, and interest in the vehicle and a consent to the sale of the vehicle.

(B)(2) Any abandoned vehicle retained past the required ten (10) day period of subparagraph (B) and not claimed by its owner or a lien holder may be sold by sealed bids submitted to the Sheriff. Prior to the sale of any vehicle under the provisions of this ordinance the Sheriff or representative shall obtain from any individual knowledgeable about the value of vehicles, an estimate of the value of the vehicle in question. At such sale the highest bid for any such vehicle shall be accepted unless the Sheriff or representative deems the bid inadequate, in which event all bids will be rejected. Public notice of the sale of an abandoned vehicle shall be posted on the public notice boards of the Portage County Courthouse and shall be in the same forms the certified mail notice sent to the owner or lien holder of record. Any interested person may offer bids on each abandoned vehicle to be sold. If all bids are rejected or no bids are received, the Sheriff may either repost to another date and seek additional bids, sell the vehicle through a direct private sale for an adequate amount of money or junk the vehicle.

(B)(3) Upon sale of the abandoned vehicle, the proceeds obtained from the disposal of said vehicle shall be distributed by the Sheriff as follows:

- a. Reimbursement of all charges accrued by the County, including but not limited to estimated fees, if any, towing and storage fees.
- b. Payment to lien holder of record, in accordance with priority and extent of lien.
- c. Payment of any forfeiture or costs.
- d. Payment to the owner of said vehicle of any proceeds remaining after the distribution of proceeds in accordance with a, b, or c above.

(B)(4) On the date of the sale of the abandoned vehicle the Sheriff shall supply the purchaser with a completed form designed by the Wisconsin Department of Transportation, Division of Motor Vehicles, which enables the purchaser to obtain regular Certificate of title for the vehicle. The purchaser shall have ten (10) days from the date of sale to remove the vehicle from the storage area but shall pay a reasonable storage fee determined by the Sheriff for each day the vehicle remains in storage after the second business

day subsequent to the sale date. The owner may reclaim the vehicle up to the date of the sale, the owner shall forfeit all interest in the vehicle and the vehicle shall be considered the property of the purchaser.

### **2.6.5 NOTICE TO STATE**

Within five (5) days after the sale or disposal of a vehicle, the Sheriff shall advise the Wisconsin Department of Transportation, Division of Motor Vehicles of the sale or disposition on a form supplied by the Department.

### **2.6.6 PENALTY**

Any person who violates this ordinance shall upon being found in violation thereof forfeit not less than \$20.00, nor more than \$200.00, plus the cost of prosecution as provided by 814.63(4) Wisconsin Statutes, the penalty assessment allowed for by 165.87 Wisconsin Statutes and the jail assessment imposed by 302.46 Wisconsin Statutes.

### **2.6.7 ENFORCEMENT**

It is the duty of the Portage County Sheriff's Department to enforce the provisions of this Chapter. The Sheriff and Deputy Sheriffs are authorized to enforce this Chapter using accepted, appropriate, and legal Police methods. This Chapter shall be enforced in the same manner as prescribed by the provisions of 345.20 through 345.33 Wisconsin Statutes.

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## **2.7 FIREWORKS**

### **2.7.1 INCORPORATION OF STATE LAW**

The statutory provision of section 167.10 of the Wisconsin Statutes describing and defining regulations with respect to fireworks, exclusive of any provisions therein relating to penalties to be imposed, are hereby adopted and by reference made a part of this code as if fully set forth herein, as authorized in section 167.10(5), Wisconsin statutes. Any act required to be performed or prohibited by statute incorporated herein by reference is required or prohibited by this code. Any future amendments, revisions, modifications, or renumbering of the statute incorporated herein are intended to be made part of this code in order to secure uniform regulation of fireworks.

### **2.7.2 PENALTIES**

Whoever violates the provisions of this section as a first violation is subject to a forfeiture of not more than \$35.00 and in lieu of payment thereof incarcerated for a period of not more than sixty (60) days in the county jail. Whoever violates the provisions of this section as a second violation within one year is subject to a forfeiture of not more than \$35.00 plus costs and assessments and in lieu of payment thereof incarcerated for a period of not more than ninety (90) days in the county jail.

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## **2.8 REGULATION OF RAILROAD CROSSINGS**

### **2.8.1 OBSTRUCTION OF CROSSING**

No person shall leave standing or stop or permit or allow to stand or stop any railroad train, engine or car upon any street, alley or highway crossing within the limits of any village or township located in Portage County so as to obstruct public travel for a greater period of time than ten (10) minutes without opening such street, alley or crossing for at least ten minutes. Any conductor, engineer, fireman or brakeman on any train or locomotive so obstructing any street, alley or railroad crossing or any yardmaster, flagman, switchman or section hand who shall allow and be responsible for such obstruction shall be subject to forfeiture of not less than twenty-five (\$25.00) and not more than ten thousand (\$10,000.00) dollars subject to injunctive order of the court and in lieu of payment thereof incarcerated for a period of not more than ninety (90) days in the county jail. Citations may be issued pursuant to this Code. The corporation or legal entity running or operating such train, engine or cars so obstructing any street or railroad crossing shall be subject to the provisions set forth in this paragraph.

### **2.8.2 CROSSING WARNING BY TRAINS-HORNS AND WHISTLES**

No person shall operate or permit to be operated a locomotive, railway train, engine or railway car over any graded street or highway crossing within the limits of Portage County unless a whistle or horn shall be blown a minimum of eighty (80) feet from such crossing and a bell rung continuously until the crossing shall be reached. The blowing of a whistle or horn and the ringing of a bell shall not be necessary where gates are operated automatically or a flagman is stationed at such traveled grade crossing. Violation of this provision shall be subject to forfeiture of not less than twenty-five (\$25.00) dollars and not more than ten thousand (\$10,000.00) dollars subject to injunctive order of the court and in lieu of payment thereof incarcerated for a period of not more than ninety (90) days in the county jail. The corporation running or operating such train, engine or cars so obstructing any street or railroad crossing shall be subject to the provisions set forth in this paragraph.

Revised by Resolution No. 198-2004-2006 on 3-21-06

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## **2.9 JUVENILE NIGHTTIME CURFEW**

### **2.9.1 LEGISLATIVE PURPOSES**

Pursuant to sec. 59.45(6), Wis. Stats., 1997-98, the Portage County Board of Supervisors has determined that there has been an increase in juvenile violence, juvenile gang activity and crime by persons under the age of 18 in Portage County and persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of other perpetrators of crime. Portage County has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities, and a nighttime curfew for those under the age of 17 will be in the interest of the public health, safety and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of Portage County.



## **2.9.2 DEFINITIONS**

In this section:

(A) “*County*” means Portage County, Wisconsin

(B) “*Curfew hours*” means:

1. 11:00 p.m. until 5:00 a.m. the following day, each day of the week.

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

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

(E) “*Guardian*” means:

1. A person who, under court order, is the guardian of the person or a minor; or

2. A public or private agency with whom a minor has been placed by a court.

(F) “*Minor*” means any person under 17 years of age.

(G) “*Operator*” means any entity, individual, firm, association, partnership or cooperation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officer of a corporation.

(H) “*Parent*” means a person who is:

1. A natural parent, adoptive parent or step-parent to another person: or

2. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(I) “*Public Place*” means any place to which the public or a substantial group of the public has access and includes, but is not limited to: streets, highways, and the common areas of school, hospitals, apartment houses, office buildings, transport facilities and shops.

(J) “*Remain*” means to:

1. Linger or stay; or

2. Failure to leave the premises when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises.

(K) “*Serious Bodily Injury*” means any bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

## **2.9.3 VIOLATIONS**

(A) A minor commits a violation if he/she remains in any public place or on the premises of any establishment within the County during curfew hours.

(B) A parent or guardian of a minor commits a violation if he/she knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the County during curfew hours.

(C) The owner, operator, or any employee of an establishment commits a violation if he /she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

## **2.9.4 EXCEPTIONS**

It is not a violation under this Ordinance if the minor was:

- (A) Accompanied by the minor's parent or guardian;
  - (B) On an errand at the direction of the minor's parent or guardian without any detour or stop;
  - (C) In a motor vehicle involved in interstate travel;
  - (D) Engaged in any employment activity or going to or returning home from an employment activity without any detour or stop;
  - (E) Involved in an emergency;
  - (F) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the County, or by any city, village or town, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the County, or by any city, village or town, a civic organization or another similar entity that takes responsibility for the minor.
  - (G) Going to, or attending or returning home from a movie theatre, without any detour or stop.
1. It is a defense to prosecution under subsection (2)(D) that the owner, operator, or employee of an establishment promptly notified a law enforcement department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

### **2.9.5 ENFORCEMENT**

Before taking any enforcement action under this Ordinance, a law enforcement officer shall ask the offender's age and reason for being in the public place. The officer shall not issue a citation under this section unless the officer reasonably believes that a violation has occurred and that, based on any response and other circumstances, no defense in subsection (4) is present.

### **2.9.6 PENALTIES**

Any person who violates a provision of this Ordinance is guilty of a separate violation for each day or part of a day during which the violation is committed, continued or permitted. Each violation, upon conviction, is punishable by a forfeiture of not less than twenty-five (\$25.00) dollars nor more than three hundred (\$300.00) dollars, plus costs and assessments.

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## **2.10 PROHIBITION OF POSSESSION OF MARIJUANA, SYNTHETIC CANNABINOIDS AND DRUG PARAPHERNALIA**

### **2.10.1 DEFINITIONS**

In this ordinance the following definitions are included and incorporated by reference as follows:

- (a) "Marijuana" (defined as tetrahydrocannabinols under section 961.14(4) of the Wisconsin statutes) has the same meaning as the definition found in section 961.01(14).
- (b) "Drug Paraphernalia" has the same meaning as the definition found in section 961.571 of the Wisconsin statutes.
- (c) "Synthetic cannabinoid" includes all controlled substances defined under sections 961.14(4)(tb) to (ty) of the Wisconsin statutes, or an analog of those controlled substances.

## **2.10.2 DETERMINATION**

(a) In determining whether an object is drug paraphernalia, a court or other authority shall consider the factors stated in section 961.572, Wis. Stats.

(b) The weight of the substance includes the tetrahydrocannabinols and the weight of any marijuana that contained the tetrahydrocannabinols.

## **2.10.3 USE OR POSSESSION**

(a) No person may possess or attempt to possess tetrahydrocannabinols included under section 961.41(4)(t) of the Wisconsin statutes, or synthetic cannabinoids included under sections 961.14(4)(tb) to (ty) of the Wisconsin statutes, except as provided in section 961.41(3g)(intro.)

(b) No person may use, or possess with the intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise, introduce, into the human body, a controlled substance or controlled substance analog in violation of Chapter 961, Wis. Stats.

(c) This ordinance shall not apply to any person who:

(1) Is charged with possession of more than 5 grams of marijuana.

(2) Is charged with possession of any amount of marijuana following a conviction for possession of marijuana, in this state.

(3) Is charged with possession of any amount of synthetic cannabinoid following a conviction for possession of synthetic cannabinoid, in this state.

## **2.10.4 PENALTY**

Any person who violates any provision of this ordinance shall, upon conviction, be subject to a forfeiture of not less than \$200, nor more than \$500.

Revised by Resolution No. 198-2004-2006 on 3-21-06

Revised by Resolution No. 60-2008-2010 on 9-16-08

Revised by Resolution No. 200-2010-2012 on 8-16-11

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## **2.11 PROHIBITION OF THE ABUSE OF THE “9-1-1” SYSTEM**

### **2.11.1 DEFINITION**

In this section

a. “911” means the digits which comprise the emergency telephone number used to access the 911 system.

b. “911 operator” means any person employed by a municipality, as defined under section 345.05 of the Wisconsin Statutes, responsible for the dispatching, summoning, control or management of law

enforcement, fire fighting, rescue, emergency medical, or other emergency services personnel, or transfers such requests to the appropriate agency.

c. "911 system" means the system established under section 256.35 of the Wisconsin Statutes used to transmit requests for law enforcement, fire fighting, rescue, emergency medical, or other emergency services to the public safety agencies providing such services.

d. "Dial 911" means to activate the 911 system by any means, including manually, automatically, or remotely.

e. "Emergency" means a situation where human life or property is threatened, and the immediate summoning of law enforcement, fire fighting, rescue, emergency medical, or other emergency services is necessary to prevent or lessen such a danger, or to report a crime in progress.

f. "Owner" means any person who owns, leases, rents, or otherwise has physical control of a property.

g. "Person" means any individual, firm, corporation or legal entity.

### **2.11.2 PROHIBITED ACTS**

No person shall:

a. Intentionally dial 911 when no emergency exists.

b. Intentionally dial 911 to falsely report an emergency.

c. Intentionally dial 911 to report an incident that the person reasonably knows does not constitute an emergency, or to request information of a non-emergency nature, such as weather conditions or traffic reports.

d. Intentionally dial 911 for the purpose of harassing, intimidating, or annoying a 911 operator.

e. Dial 911, either purposefully or accidentally, and terminating the connection without first waiting for a 911 operator to answer the call and explaining the nature of the call or the accidental dialing of 911.

f. Knowingly or negligently allow a child to dial 911 for any purpose other than to report an emergency.

g. Prevent any person from dialing 911 for the purpose of reporting an emergency, interfere with any conversation with a 911 operator for the purpose of reporting an emergency, or force the termination of any activation of the 911 system without the consent of the person who dialed 911 or the 911 operator.

h. Allow a third party to violate any provision listed above, if such person is the owner of the property.

### **2.11.3 OWNERS'S RESPONSIBILITY OF VIOLATION**

a. The owner of a property shall be liable for all violations that originate from that property.

b. The owner shall be determined by utilizing telephone company records, property tax records, an automatic location or number identification system as defined in section 256.35(1)(a) of the Wisconsin Statutes, or by other legitimate or reliable means.

c. Any legitimate record from the 911 system showing that a call originated from a particular property shall be prima facie evidence of such a call and the owner's subsequent responsibility for any violation.

d. Notwithstanding section 2.11.2(h), no owner shall be held liable if such person provides to a law enforcement officer the name, address, and telephone number of the person who has either violated this section, or had physical control of the property at the time of the violation.

e. No owner shall be held liable if his or her property was entered or used by a third party without the permission of the owner. The property owner must prove by a preponderance of the evidence that the person who violated this section did not have permission to be at or to use the property.

### **2.11.4 DEFENSES TO PROSECUTION**

No person shall be considered in violation of this section:

- a. If such person dialing 911 reasonably believes that the situation being reported is an emergency.
- b. If complying with this section would reasonably lead to the further endangering of life or property.
- c. If engaged in the legitimate installation, repair or testing of the 911 system, with prior approval of a 911 operator or engaged in legitimate law enforcement activities.

### **2.11.5 PENALTY**

Any person who violates this ordinance shall be required to forfeit not less than \$100.00 nor more than \$600.00, together with all legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed thirty (30) days. Citations may be issued by the Portage County Sheriff's Office for violations of this ordinance per the citations chapter of the Code of Ordinances.

Revised by Resolution No. 28-2012-2014 on 7-17-2012

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## **2.12 NUISANCES**

No person shall cause, continue, contrive, erect, maintain, or permit to exist any public nuisance within the County of Portage. "Nuisance" means a condition or situation which annoys, injures, or endangers the safety, health, comfort, or repose of others. If the public is injured in its civil or property rights or privileges or in respect to public health or safety to any degree, a nuisance exists. "Nuisance" includes, but is not limited to, the following acts, conditions, conduct, omissions, or things.

### **2.12.1 TRESPASS TO PRIVATE LAND**

State Law Adopted. Except as specifically provided in this ordinance, all provisions of section 943.13 of the Wisconsin Statutes are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated by reference herein are respectively required or prohibited by this ordinance. The terms "Wisconsin statutes" wherever used in this ordinance shall mean the then current Wisconsin statutes, as revised, and shall incorporate by reference any existing or future amendments.

### **2.12.2 NUISANCE PROPERTIES**

No person shall reside at, maintain, lease, own, rent, or otherwise occupy any residence, business, dwelling, or other building where any of the following nuisances are allowed to occur:

Such property has generated three or more calls for law enforcement service for nuisance activities on separate days in one month, or six or more calls in a twelve-month period. Nuisance activities are defined as any of the following activities, behaviors, or conduct whenever engaged in by property owners, operators, tenants, occupants, or persons associated with a property, whether or not a citation or arrest was made for the violation:

- (1) An act of harassment, as defined in section 947.013, Wis. Stats.

- (2) Disorderly conduct, as defined in section 947.01, Wis. Stats.
- (3) Battery, substantial battery, or aggravated battery, as defined in section 940.19. Wis. Stats.
- (4) Indecent conduct as defined in section 944.20(1), Wis. Stats.
- (5) Prostitution or keeping a place of prostitution, as defined in section 944.30 and section 944.34, Wis. Stats.
- (6) Possession, manufacture, or delivery of a controlled substance or related offenses, as defined in chapter 961, Wis. Stats.
- (7) Gambling or other offenses, as defined in section 945.02, Wis. Stats.
- (8) Illegal discharge of a firearm, as defined in section 941.20, Wis. Stats.
- (9) Any other offense against public peace and order as defined in this Code of Ordinances.

### **2.12.3 PROHIBITION AGAINST UNREASONABLE NOISE**

- (A) No person or persons shall engage in any noisy activity on public or private property that tends to annoy, disturb or otherwise irritate any neighboring tenant or person legally entitled to possession thereof, except for the reasonable noise which occurs in the normal course of reasonable human activity.
- (B) No owner, operator or occupant of a building, building unit or premise shall suffer, permit or allow the barking, yelping or howling of a dog or dogs which barking shall result in an excessive or unusual noise that disturbs the comfort, quiet or repose of persons therein or in the vicinity. The provisions of this section shall not apply to licensed animal hospitals, veterinary facilities or to the premises used by municipalities for impounding animals.

### **2.12.4 PROHIBITION AGAINST DANGEROUS SUBSTANCES**

- (A) Notwithstanding section 4.5 of this Code of Ordinances, no person, business, organization or other entity shall possess, store, transport, or use, any explosive, inflammable liquid, combustible, biohazardous, radioactive, reactive, or other hazardous or toxic substance or material, contrary to state law or this Code of Ordinances, in any manner or quantity which creates, or potentially creates, a human health hazard, as defined in section 254.01(2), Wis. Statutes.
- (B) Any person who shall cause, create, or maintain such a human health hazard, or who shall in any way aid or contribute to the causing or maintenance thereof, shall be guilty of a violation of this Code of Ordinances, and shall be liable for all costs and expenses related to the abatement, removal, and correction of such hazard and to the penalties provided within this Code of Ordinances and any related statutory provisions.

### **2.12.5 OBSTRUCTING PUBLIC WAYS**

No person, business, organization, or other entity shall do any of the following:

- (A) Through unreasonable action or inaction, impede, obstruct, or make dangerous the free flow of vehicles, pedestrians, or other traffic upon any highway, street, alley, navigable body of water, or other public way or the use of public property.
- (B) Park or drive unauthorized vehicles within public parks, athletic fields, or other public property.

### **2.12.6 LOITERING**

No person shall loiter, in either a public or private place including any public way, street, highway, place, alley, sidewalk, business, or that portion of private property utilized for public use, without the consent of the owner, lessee, renter, governmental officer, or other person or entity in lawful control of said property under any of the following circumstances:

- (A) At a time or in a manner not usual for law abiding citizens, under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.
- (B) Individually or as part of a larger group, give reason to believe that person or anyone in such group has committed or is committing a violation of law, whether or not a citation or arrest is made. Violations include, but are not limited to, damage to property, littering, disorderly conduct, unreasonable noise, underage alcohol consumption, theft, vandalism, or trespassing.
- (C) Remain on such property for any purpose other than what could be reasonable intended by the property owner when such property is posted with a clearly marked sign(s) indicating "NO LOITERING" or words to that effect.
- (D) Remain in such a place and refuse to obey the lawful command of a law enforcement officer to move on or provide to said law enforcement officer a lawful reason for remaining in such a place if the alleged loitering by said person would create or cause to be created any of the following:
  - (1) Danger of a breach of the peace;
  - (2) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully therein or nearby;
  - (3) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic;
  - (4) The obstruction, molestation, or interference or attempt to obstruct, molest, or interfere with any person lawfully therein to fear for his or her safety or the safety of others.

### **2.12.7 ENFORCEMENT**

It shall be the duty of the Portage County Sheriff to enforce the provisions of this ordinance.

### **2.12.8 PENALTIES**

- (A) Any person, firm, corporation, or legal entity which violates, disobeys, neglects, omits, or refuses to comply with the provisions of this ordinance shall do all of the following:
  - (1) Incur a forfeiture not less than \$10.00, nor more than \$500.00, together with the costs of prosecution, and in default of payment thereof, shall be incarcerated in the Portage County Jail for a term of not more than 30 days, or until such judgment is paid.
  - (2) Abate or remove such nuisance summarily and/or within a defined reasonable period of time established by the Sheriff or designee.
  - (3) Be collaterally enjoined or restrained from further violation(s). A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- (B) Citations under this section may be issued to any resident, tenant, lessee, occupant, and/or owner of the premises.
- (C) Nothing in this ordinance shall constrain the County from subsequent or further actions commenced under chapter 823 of the state statutes.

Revised by Resolution No. 198-2004-2006 on 3-21-06

Revised by Resolution No. 305-2008-2010 on 3-16-10

Revised by Resolution No. 119-2012-2014 on 1-15-13

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## **2.13 HIGHWAY SPEED ZONES**

### **2.13.1 ESTABLISHMENT OF SPEED LIMITS**

A traffic and engineering investigation having been made on the following described highways, the maximum permissible speeds at which vehicles may operate on said highways, which speeds are hereby established as reasonable subject to the approval of the State Highway Commission, shall be as set forth below upon the erection of standard signs giving notice thereof, all in Portage County Wisconsin:

A. County Trunk Highway "U", Town of Grant. Forty-five miles per hour from the junction of County Trunk Highway "U" and County Trunk Highway "W" southerly .75 mile to the junction with South Park Road.

B. County Trunk Highway "U", Town of Grant. Thirty-five miles per hour from South Park Road southerly .5 mile to a point 300 feet north of the junction with Ruby Street.

C. County Trunk Highway "U", Town of Grant. Forty-five miles per hour from a point 300 feet north of the junction with Ruby Street southerly for a distance of 1.25 miles to the junction with County Trunk Highway "W", Town Line Road.

D. County Trunk "WW", Town of Grant. Thirty-five miles per hour from the junction of County Trunk U easterly .6 mile to a point .25 mile west of the junction of 90<sup>th</sup> Street.

E. County Trunk "WW", Town of Grant. Forty-five miles per hour from a point .25 west of the junction of 90<sup>th</sup> Street easterly 3.25 mile to the junction of County Trunk "F".

F. County Trunk Highway "Z", Township of Sharon, Thirty-five miles per hour from the junction of State Trunk Highway "66" southerly and easterly for a distance of 1.00 mile to a point 200 feet west of the junction of Edgewood Road.

G. County Trunk Highway "K", Township of Sharon. Thirty-five miles per hour from its junction with County Trunk Highway "Z" southerly for a distance of .40 mile to a point 300 feet south of the junction of John's Lane.

H. County Trunk Highway "K", Township of Sharon. Forty-five miles per hour from a point 300 feet south of John's Lane southerly .40 mile to a point 300 feet south of the junction of Lepak Lane.

I. County Trunk Highway "K", Township of Sharon. Thirty-five miles per hour from the junction of State Highway 66 southerly .35 mile to the junction of County Trunk Highway Z.

J. County Trunk Highway "HH", Village of Whiting and Town of Plover. Twenty-five miles per hour from the junction of Business Highway "51" a/k/a Post Road easterly for a distance of 0.8 miles.

K. County Trunk Highway "HH", Village of Whiting and Town of Plover. Thirty-five miles per hour from a point 0.8 miles east of the junction of Business Highway "51" a/k/a/ Post Road easterly for a distance of 0.3 miles.

L. County Trunk Highway "J", Township of Stockton. Forty-five miles per hour from the junction of County Trunk B northerly .2 mile.

M. County Trunk Highway "J", Township of Stockton. Twenty-five mile per hour from a point .2 mile north of the junction of County Trunk Highway B northerly .3 mile.



N. County Trunk Highway "J", Township of Stockton. Forty-five miles per hour from a point .5 mile north of the junction of County Trunk Highway B northerly .55 mile to a point 300 feet north of the junction of Fourth Ave.

O. County Trunk Highway "K", Township of Stockton. Thirty-five miles per hour from the junction of U.S. Highway "10" northerly to the junction of Rolling Hills Rd a distance of .54 mile.

P. County Trunk Highway "W", Town of Pine Grove. Thirty-five miles per hour from .77 mile easterly of the intersection with the northbound lane of U.S. Highway "51" a/k/a Interstate "39" freeway to .38 mile westerly of the junction of the northbound lane of U.S. Highway "51" a/k/a Interstate "39" a distance of 1.15 mile.

Q. County Trunk Highway "E", Towns of Linwood and Carson. Forty-five miles per hour from the junction with County Trunk Highway "C" northerly to its intersection with U.S. Highway "10".

R. County Trunk Highway "KK", Town of Amherst and Village of Amherst. Thirty-five miles per hour for all vehicles from the intersection of County Trunk "KK" with County Trunk "A", northerly along County Trunk "KK" to a point 800 feet south of Timberline Court, a distance of 1.55 miles.

S. County Trunk Highway "I", Town of Sharon. Forty-five miles per hour from the junction with County Trunk Highway "Z" northerly to its intersection with County Trunk Highway "OO", a distance of 1.5 miles.

T. County Trunk Highway "Z" Town of Sharon. Forty-five miles per hour from the junction with Edgewood Road easterly for a distance of .39 miles (2077 feet).

### **2.13.2 PENALTIES**

Any person violating any provision of this ordinance, shall be assessed a forfeiture of not less than twenty (\$20) dollars nor more than two hundred (\$200) dollars and in default of payment of said forfeiture, by incarceration of not more than 60 days in the County Jail.

Revised by Resolution No. 198-2004-2006 on 3-21-06

Revised Resolution No. 34-2008-2010 on June 17, 2008

Revised by Resolution No. 297-2008-2010 on 3-16-10

Revised by Resolution No. 73-2012-2014 on 9-18-12

Revised by Resolution No. 74-2012-2014 on 9-18-12

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## **2.14 SOLICITOR REGULATION**

### **2.14.1 PERMIT REQUIRED**

It shall be unlawful for any person, firm or corporation to make arrangements for any other person, firm or corporation to go in upon the private residence, apartment or premises in the County of Portage for the purpose of soliciting from the occupants thereof, or to canvas for orders for goods, wares, merchandise or services of any character or description, or for the purpose of offering to give or furnish or giving or furnishing any goods, wares, merchandise, or services to any such occupants, to induce or invite such order, without first having applied for and received from the Portage County Clerk a solicitor's permit to do so.

### **2.14.2 PERMIT SPECIFICATIONS**

The terms of this ordinance shall not be held to include newsboys, not be held to acts of resident merchants, businessmen, insurance agents, or employees residing in Portage County in taking orders in the house of their customers for goods held in stock in established places of business within Portage County or at established agencies, nor the acts of said merchants, businessmen and employees in delivering such goods, merchandise or insurance policies in the regular course of business, nor to solicitations or sales made by residents of Portage County for charitable purposes, nor shall it apply to farms or truck gardeners residing in the State of Wisconsin, who shall vend, sell or dispose of, or offer to sell, vend, dispose of the products of the farm or garden occupied or cultivated by him, provided further that nothing contained in this ordinance shall be held to prohibit any sale required by statute or by order of any court, or to prevent any person from conducting a bona fide auction sale pursuant to law.

Any person desiring to secure such a solicitor's permit shall apply therefore, in writing over his or her signature to the Portage County Clerk on forms provided by the County of Portage, and such application shall state (1) the name and address of the applicant (2) the name and address of the person, firm or corporation by whom employed (3) the length of service of such applicant with such employer (4) the place of residence and nature of the employment of the applicant during the preceding year (5) the nature or character of the goods, wares, merchandise or services to be offered by the applicant (6) the personal description of the applicant. Such application shall be accompanied by such credentials and other evidence of the good moral character and identity of the applicant as may be reasonably required by the Portage County Clerk.

#### **2.14.3 BACKGROUND INVESTIGATION**

The Portage County Sheriff's Department shall conduct a reasonable investigation of the applicant as to his previous background and moral character to engage in a lawful and legitimate commercial or professional enterprise. No solicitor's permit shall be issued until that person's fingerprints are on file with the Portage County Sheriff's Department.

#### **2.14.4 ISSUANCE, EXPIRATION AND PERMIT FEE**

The Portage County Clerk shall after reviewing the background investigation information and determining that the application is sound and the applicant is of good moral character and proposes to engage in a lawful and legitimate commercial or professional enterprise, shall issue the permit applied for, with each crew member requiring a separate permit. The permit shall expire on the 31<sup>st</sup> day of December of the year in which the permit was issued. The permit fee shall be set by the Public Safety Committee of the Portage County Board and shall be reviewed as necessary. The permit may be revoked for good cause as determined by order of the Sheriff's Department, upon the receipt of complaints for violation of this ordinance.

#### **2.14.5 ENFORCEMENT**

It is the duty of the Sheriff of Portage County and all of his deputies to enforce all the provisions of this ordinance.

#### **2.14.6 PENALTIES**

Any persons, firm or corporation violating any of the provisions of this ordinance shall, upon a finding of a violation, be subject to forfeiture not less than \$10.00, but not more than \$500.00 for each offense. Upon failure to pay the forfeiture, with the contempt authority of the court, such violator shall be sentenced to not more than 90 days in the Portage County Jail. Every day which such violation shall occur or upon which such violation shall continue shall constitute a separate offense.

#### **2.14.7 EXHIBITION OF PERMIT**

The solicitor permit shall be carried on the person whom issued to, and shall be exhibited to any Law Enforcement Officer or prospective customer upon demand.

#### **2.14.8 JURISDICTION**

This ordinance shall not apply in municipalities having their own solicitor ordinances.

Revised by Resolution No. 208-2008-2010 on 9-22-09

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### **2.15 REGULATION AND LICENSING OF LARGE ASSEMBLIES**

#### **2.15.1 PURPOSE**

Pursuant to sec. 59.54(6), Wis. Stats., the purpose of this section is to regulate the assemblage of large numbers of people in excess of those normally needing the health, sanitary, fire, police, transportation and utility services regularly provided in the County and to preserve and promote the peace, health, safety and welfare of all persons in the County, residents and visitors alike.

#### **2.15.2 DEFINITIONS**

“*Assembly*” means a company of persons gathered together at any location at any single time for any purpose.

“*Assembly Grounds*” means the entire area used for the assembly.

“*Person*” means any individual natural human being, partnership, corporation, firm, company, association, society, or group.

#### **2.15.3 LICENSES REQUIRED**

No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage, sell or give tickets to an actual or reasonably anticipated assembly of 300 or more people which continues or can reasonably be expected to continue for 8 or more consecutive hours, whether on public or private property, unless a license therefore has first been obtained from the County Clerk. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

#### **2.15.4 SEPARATE LICENSES**

A separate license shall be required for each day and each location in which 300 or more people assemble or can reasonably be anticipated to assemble.

#### **2.15.5 FEE**

The fee for each license shall be \$100. The fee will be set as a fee schedule subject to change or amendment by the Public Safety/Emergency Management Committee of the County Board of Supervisors.

#### **2.15.6 LICENSE RESTRICTIONS**

1. A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to, nor permit to assemble at the licensed location, more than the maximum permissible number of people.
2. The license shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.
3. The gathering/assembly shall be open at all times to the Portage County Sheriff's Dept. and other law enforcement personnel as designated by the Sheriff to ensure public safety.

#### **2.15.7 EXCEPTIONS**

1. This section shall not apply to gatherings/assemblies of more than 300 persons at any regularly established, permanent place of worship, stadium, athletic field, arena, auditorium, coliseum or other similar permanently established place of assembly for assemblies which do not exceed the maximum seating capacity of the structure where the assembly is held.
2. This section shall not apply to government-sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed by other County ordinances or regulations.
3. This section shall not apply to assemblies of 300 or more persons as defined by this ordinance sponsored by organizations which have a state or federal charter.

#### **2.15.8 APPLICATION FOR LICENSE**

(a) Application for a license to hold an actual or anticipated assembly of 300 or more total attendees throughout the event shall be made in writing to the County Clerk at least 30 days in advance of such assembly.

(b) Such application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in case of an individual, by all officers in the case of a corporation, by all partners in the case of a partnership or by all officers if an unincorporated association, society or group, or if there be no officers, by all members of such association, society or group.

(c) The application shall contain:

1. The name, age, residence and mailing address of all persons required to sign the application by par. (b), and in the case of a corporation, a certified copy of the articles of incorporation, together with the name, age, residence and mailing address of each person holding 10% or more of the stock of such corporation.

2. The address and legal description of all property upon which the assembly is to be held, together with the name, residence and mailing address of the record owner of all such property.
3. Proof of ownership of all property upon which the assembly is to be held, or a statement made upon oath or affirmation by the record owner of all such property for an assembly of 300 or more persons.
4. A statement as to the nature or purpose of the assembly.
5. The total number of days or hours during which the assembly is to last.
6. A statement as to the maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning ordinances of the County if the assembly is to continue overnight.
7. A statement of the maximum number of tickets to be sold.
8. A statement of the applicant's plans to limit the maximum number of people permitted to assemble.
9. A statement of the plans for fencing the location of the assembly and the gates contained in such fence.
10. A statement of the plans for supplying potable water, including the source, amount available and location of outlets.
11. A statement of the plans for providing toilet and lavatory facilities, including the source, number, location and type and the means of disposing of waste deposited.
12. A statement of plans for holding collections and disposing of solid waste material.
13. A statement of plans to provide for medical facilities, including the location and construction of a medical structure, the names, addresses and hours of availability of physicians, nurses, emergency medical technicians, and provision for emergency ambulance service.
14. The plans, if any, to illuminate the location of the assembly, including the source and amount of power and the location of lamps.
15. The plans for parking of vehicles, including the size and location of lots, the points of highway access and the interior roads and routes between highway access and parking lots, and if applicable, a dust control plan.
16. The plans for telephone service, including the source, number and location of telephones.
17. A statement specifying whether any camping or housing facilities are to be available; and if so, a plan showing the intended number and location of same.
18. A statement of plans for security, including the number of guards, and/or crowd control personnel, their deployment and their full names, birth dates, addresses, phone numbers, credentials and hours of availability. See requirements: 2.15.9j.
19. A statement of plans for fire protection, including the number, type and location of all protective devices, including alarms and extinguishers, and the number of emergency fire personnel available to operate any such equipment.
20. The plans for food concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers.
21. A statement of whether alcohol will be made available on the grounds of the assembly and if so, by whom and at what location, along with proof of a liquor license.
22. A contact person who shall be easily identified and who shall remain at the assembly at all times and be able to be contacted immediately by (any or all, but not limited to) radio, cellular telephone, or land line telephone. The contact person must be able to account for security personnel at all times for the duration of the event.

## **2.15.9 CONDITIONS FOR LICENSE**

(a) PLANS

Before an applicant may be issued a license hereunder, he shall first:

1. Determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided:
  - a. The maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly.
  - b. Where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinance of the County.
  - c. The applicant shall have a method of determining the attendance of the event at any time throughout the event.
2. Provide proof that he/she will furnish his/her own expense before the assembly commences:
  - a. A fence completely enclosing the proposed location and of sufficient height and strength to prevent people in excess of the maximum permissible number from gaining access to the assembly grounds and having at least 4 gates, at least one at or near 4 opposite points of the compass. Alternate provisions which provide for enclosure may be approved by the Portage County Sheriff.
  - b. Potable water meeting all federal and state requirements for purity and sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per person per day and for bathing at the rate of at least 10 gallons per person per day.
  - c. Separate, enclosed toilets for males and females meeting all state and local specifications, conveniently located throughout the grounds and sufficient to provide facilities for the maximum number of people to be assembled at the rate of at least one toilet for every 200 females and at least one toilet for every 300 males, together with an efficient, sanitary means of disposing of waste matter deposited which is in compliance with all State and local laws and regulations. A lavatory with running water under pressure and a continuous supply of soap and paper towels shall be provided with each toilet.
  - d. A sanitary method of disposing of solid waste in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly and sufficient trash cans with tight fitting lids and personnel to perform the task.
  - e. Emergency Medical Services (EMS) care, on site, sufficient to provide the average medical care enjoyed by state residents for the maximum number of people to be assembled adhering to the following guidelines:
    - 300-10,000 Basic Life Support coverage, minimum of 2 first responders.
    - 10,000-20,000 Advanced Life Support with a minimum of 2 EMT-Ps (Paramedics), one dedicated ambulance and Basic Life Support with 2 first responders.
    - > 20,000 Advanced Life Support with a minimum of 4 EMT-Ps (Paramedics) two dedicated ambulances and Basic Life Support with 2 first responders.
    - > 25,000 Advanced Life Support with a minimum of 4 EMT-Ps (Paramedics), two dedicated ambulances and Basic Life Support with 2 first responders plus one Physician and one nurse with an enclosed covered structure containing separate treatment rooms where treatment may be rendered.
    - > 50,000 will require special EMS planning considerations to be addressed with Portage County Public Safety/Emergency Management Committee and EMS Oversight Board.

The event may contract privately for EMS services but must submit documentation as proof of contract. Should the event utilize contracted EMS Services, a linkage with local EMS services must be established through planning and communications.

Special Considerations:

- Event risk, race vs. picnic
- Alcohol on site
- Weather considerations

f. If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five foot-candles, but not to shine unreasonable beyond the boundaries of the enclosed location of the assembly.

g. A free parking area inside the assembly grounds sufficient to provide parking spaces for the maximum number of people to be assembled at the rate of one parking space for every 4 persons.

h. Telephones connected to outside lines sufficient to provide service for the maximum number of people to be assembled at the rate of at least one separate line and receiver for each 1,000 persons.

i. If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as prescribed by the Wisconsin Administration Code and county ordinances, sufficient to provide camping accommodations for the maximum number of people to be assembled.

j. The plan shall provide for security guards who must be regularly employed and sworn law enforcement officers of the Portage County Sheriff's Department, private guards licensed by the State of Wisconsin Department of Regulation and Licensing, off-duty state peace officers, or any combination thereof. Security shall be attired in a recognizable uniform to differentiate in appearance from the normal crowd of the assembly. There shall be an adequate number of security personnel for the maximum number of people to be assembled at a rate of one (1) security guard for every 500 people. Unlicensed crowd control personnel may not be used in lieu of licensed security guards or sworn law enforcement personnel. It shall be the duty of the security personnel to report any violations of the law to the Sheriff, Sheriff's deputies, or law enforcement representatives and to take whatever action can be reasonably expected of them to enforce the law.

k. Fire protection, including alarms, extinguishing devices and fire lanes and escapes, sufficient to meet all state and local standards for the location of the assembly as prescribed in the Wisconsin Administrative Code and county ordinances, and sufficient emergency personnel to efficiently operate any required equipment.

l. All necessary precautions to insure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.

m. It is also to be understood by the applicant that no person conducting a large gathering/assembly, nor any person having charge or control thereof at any time when the large gathering/assembly is being conducted shall permit any person to bring in to the large gathering/assembly, or upon the premises thereof, any illegal drugs, nor permit illegal drugs to be used on the premises.

(b) BOND

No license shall be issued unless the applicant deposits with the County Clerk a bond, either in cash or underwritten by a surety company licensed to do business in the state, at the rate of \$2.00 per person for the maximum number of people permitted to assemble, which shall identify and hold harmless the County or any of its agents, officers, servants or employees from any liability or causes of action which might arise by reason of the granting of such license and from any cost incurred in cleaning up any waste material produced or left by the assembly.

(c) INSURANCE

Prior to issuance of the permit by the Clerk, each permittee shall furnish evidence of a liability insurance policy in an amount of not less than \$500,000 per occurrence and \$1,000,000 annual aggregate, and shall be in force and effect at the time such usage is to take place. Said evidence of insurance shall include a

certificate of insurance naming the County of Portage as additional named insured in connection with said usage.

(d) LICENSE FEES

The application shall be accompanied by the license fees as required in Section 2.15.5.

**2.15.10 ISSUANCE OF LICENSE**

The application for a license shall be processed within 20 days of receipt, and a license shall be issued if all conditions are complied with.

**2.15.11 REVOCAION OF LICENSE**

The license may be revoked by the Sheriff or Public Safety Committee subject to appeal to the County Board, whenever any condition of issuance of the license or any condition contained in the license is not complied with or whenever any condition previously met is no longer being met.

**2.15.12 ENFORCEMENT**

(a) BY INJUNCTION

The provisions of this section may be enforced by injunction in any court of competent jurisdiction.

(b) AS A PUBLIC NUISANCE

The holding of an assembly in violation of any provision or condition contained in this section shall be deemed a public nuisance and may be abated as such.

(c) FORFEITURE

Any person or entity who violates any condition upon which he is granted a license, or any other provision of the ordinance, shall be subject to a forfeiture of not less than \$1,000 nor more than \$10,000, per occurrence.

Revised by Resolution 181-2006-2008 on 1-15-08

Revised by Resolution 134-2008-2010 on 4-21-09

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**2.16 REGULATION OF STREET, ALLEY AND HIGHWAY TRAFFIC**

**2.16.1 STATE TRAFFIC LAWS AND RULES ADOPTED**

Except as specifically provided in this ordinance, all provisions of Chapters 340 to 348 and 350 of the Wis. Stats., and all rules promulgated by the Wisconsin Department of Transportation under chapters 110, 347 and 348 of the Wisconsin Statutes, are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute or rule incorporated by reference herein are respectively required or prohibited by this ordinance.

**2.16.2 PENALTY**



(A) The forfeiture for violation of any provision of chapters and rules adopted by reference in Section 2.16.1 of this ordinance shall conform to the forfeiture for violation of a comparable state offense, including all costs, fees and assessments provided for in the Wisconsin Statutes.

(B) In the alternative to (A), the County may issue a citation for any type of violation referenced above, in conformity with section five of the Portage County ordinances or may issue a citation in accordance with Section 2.16.1.

(C) If the forfeiture and costs are not paid, the Court shall order imprisonment in the county jail until said forfeiture and costs are paid, but said imprisonment shall not exceed a period of ninety (90) days.

### **2.16.3 REFERENCE TO THE STATUTES AND RULES**

The terms “Wisconsin Statutes” and “rules” wherever used in this ordinance shall mean the then current Wisconsin Statutes, as revised and all rules promulgated by the Wisconsin Department of Transportation pursuant thereto, and shall incorporate by reference any existing or future amendments.

### **2.16.4 REPEAL OF CONFLICTING ORDINANCES**

All ordinances regulating traffic upon the streets, alleys and highways of the County of Portage, Wisconsin, and all ordinances in conflict with this ordinance heretofore enacted by the County Board of Supervisors for Portage County, Wisconsin are hereby repealed.

### **2.16.5 SEVERABILITY**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Portage County Board of Supervisors would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

### **2.16.6 AUTHORITY TO APPOINT TRAFFIC CONTROL ATTENDANTS**

1) The Sheriff or designee may appoint traffic control attendants for the protection of persons who are crossing a highway in the County, in accordance with section 349.217 of the Wisconsin Statutes.

2) If a person is appointed as a traffic control attendant under sub. (1), the appointment shall specify all dates, times, and locations, for which the appointment is valid. The Sheriff or designee may revoke any such appointment at any time.

3) No person may be appointed as a traffic control attendant under sub. (1) unless the person has received prior training in traffic control and traffic safety, to the satisfaction of the Sheriff's Office.

4) During the dates and times, and at the locations, specified in the appointment as provided in sub. (2), a person appointed as a traffic control attendant shall wear an insignia or uniform that designates the person as a traffic control attendant and be equipped with signals or signs to direct traffic. All such insignia, uniforms, signs, and signals shall be of a specification created by the Sheriff's Office.

Revised by Resolution No. 27- 2012-2014 on 7-17-2012

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**2.17 PROVISIONS OF STATE LAW GOVERNING USE AND TRANSFER OF INTOXICATING BEVERAGES ADOPTED BY REFERENCE** (deleted 3-21-06)

**2.17 ALCOHOL BEVERAGES**

**2.17.1 STATE LAW ADOPTED**

Except as specifically provided in this ordinance, all applicable provisions of chapter 125 of the Wisconsin Statutes are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated by reference herein are respectively required or prohibited by this ordinance.

**2.17.2 PENALTY**

Except as provided for in (B), the forfeiture for violation of any provision of the chapter adopted by reference in section 2.17.1 of this ordinance shall conform to the forfeiture for violation of a comparable state offense, including all costs, fees, and assessments provided for in the Wisconsin statutes. Where no penalty is expressly provided for in the current state deposit schedule adopted by the Wisconsin Judicial Conference, pursuant to chapter 778 of the Wisconsin statutes, any person who violates this ordinance shall be required to forfeit not less than \$50.00 nor more than \$500.00, together with all legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed sixty ((60) days.

In the alternative to (A), the county may issue a citation for any type of violation referenced above, in conformity with section five of the Portage County ordinances, or may issue a citation in accordance with section 2.17.1.

**2.17.3 REFERENCE TO THE STATUTES AND RULES**

The term "Wisconsin statutes" wherever used in this ordinance shall mean the then current Wisconsin statutes, as revised, and shall incorporate by reference any existing or future amendments.

**2.17.4 REPEAL OF CONFLICTING ORDINANCES**

All ordinances regulating alcohol beverages of the County of Portage, Wisconsin, and all ordinances in conflict with this ordinance heretofore enacted by the Board of Supervisors for Portage County, Wisconsin are hereby repealed.

**2.17.5 SEVERABILITY**

The provisions of this ordinance shall be deemed servable and it is expressly declared that the Portage County Board of Supervisors would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

Revised by Resolution No. 198-2004-2006 on 3-21-06

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**2.18 REGULATION OF BOATS, SNOWMOBILES, AND ALL TERRAIN VEHICLES**

**2.18.1 STATE LAWS AND RULES ADOPTED**

Except as specifically provided in this ordinance, all provisions of chapters 23, 30, and 350 of the Wisconsin Statutes, and all rules promulgated by the Wisconsin Department of Natural Resources under chapters 23, 30, and 350 of the Wisconsin statutes, are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute or rule incorporated by reference herein are respectively required or prohibited by this ordinance.

**2.18.2 TRESPASS TO PUBLIC LAND**

Notwithstanding sections 2.12.1 and 2.18.1 of this code of ordinances, or any provision of the Wisconsin statutes or rules, no person may operate a snowmobile, all terrain vehicle, or any other recreational vehicle on any property owned, leased, controlled, or maintained by the County of Portage or any other public entity without express permission, or otherwise allowed by law.

**2.18.3 PENALTY**

(A) The forfeiture for violation of any provision of the chapters and rules adopted by reference in section 2.18.1 of this ordinance shall conform to the forfeiture for violation of a comparable state offense, and any person violating section 2.18.2 shall forfeit an amount not less than \$25 and not more than \$200, including all costs, fees, and assessments provided for in the Wisconsin statutes.

(B) In the alternative to (A), the County may issue a citation for any type of violation referenced above, in conformity with section five of the Portage County ordinances, or may issue a citation in accordance with section 2.18.1.

(C) If the forfeiture and costs are not paid, the court shall order imprisonment in the county jail until said forfeiture and costs are paid, but said imprisonment shall not exceed a period of ninety (90) days.

**2.18.4 REFERENCE TO THE STATUTES AND RULES**

The terms “Wisconsin statutes” and “rules” wherever used in this ordinance shall mean the then current Wisconsin statutes, as revised, and all rules promulgated by the Wisconsin Department of Natural Resources pursuant thereto, and shall incorporate by reference any existing or future amendments.

**2.18.5 REPEAL OF CONFLICTING ORDINANCES**

All ordinances regulating the operation of boats, snowmobiles, or all terrain vehicles of the County of Portage, Wisconsin, and all ordinances in conflict with this ordinance heretofore enacted by the Board of Supervisors for Portage County, Wisconsin are hereby repealed.

**2.18.6 SEVERABILITY**

The provisions of this ordinance shall be deemed servable and it is expressly declared that the Portage County Board of Supervisors would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

Adopted by Resolution No. 195-2004-2006 on 3-21-06

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## **2.19 SALES TO, PURCHASE OR POSSESSION OF TOBACCO PRODUCTS BY PERSONS UNDER 18 PROHIBITED**

### **2.19.1 STATE LAW ADOPTED**

Except as specifically provided in this ordinance, all provisions of sections 134.66 and 254.92 of the Wisconsin Statutes are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated by reference herein are respectively required or prohibited by this ordinance.

### **2.19.2 PENALTY**

(A) The forfeiture for violation of any provision of the chapter adopted by reference in section 2.19.1 of this ordinance shall conform to the forfeiture for violation of a comparable state offense, including all costs, fees, and assessments provided or in the Wisconsin statutes. Where no penalty is expressly provided for in the current state deposit schedule adopted by the Wisconsin Judicial Conference, pursuant to chapter 778 of the Wisconsin statutes, any person who violates this ordinance shall be required to forfeit not less than \$200.00 nor more than \$500.00, together with all legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed sixty (60) days.

(B) In the alternative to (A), the County may issue a citation for any type of violation referenced above, in conformity with section five of the Portage County ordinances, or may issue a citation in accordance with section 2.19.1.

### **2.19.3 REFERENCE TO THE STATUTES AND RULES**

The terms "Wisconsin statutes" wherever used in this ordinance shall mean the then current Wisconsin statutes, as revised, and shall incorporate by reference any existing or future amendments.

### **2.19.4 REPEAL OF CONFLICTING ORDINANCES**

All ordinances regulating the purchase or possession of tobacco products by persons under 18 years of age of the County of Portage, Wisconsin, and all ordinances in conflict with this ordinance heretofore enacted by the Board of Supervisors for Portage County, Wisconsin are hereby repealed.

### **2.19.5 SEVERABILITY**

The provisions of this ordinance shall be deemed servable and it is expressly declared that the Portage County Board of Supervisors would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

Adopted by Resolution No. 196-2004-2006 on 3-21-2006

Revised by Resolution No. 209-2008-2010 on 9-22-09

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## **2.20 PROHIBITION AGAINST VIOLATION OF JAIL RULES**

### **2.20.1 DEFINITIONS**

In this section:

(A) "Jail" means the Portage County Jail, Juvenile Detention Facility, and adjoining offices, facilities, grounds, and property maintained by and for the Sheriff of Portage County, Wisconsin.

(B) "Rule" means any lawful rule made by competent authority, and approved by the Sheriff of Portage County or his/her designee.

(C) "Visiting" means being on the premises of the Portage County Jail for any purpose.

(D) "Officer" means any law enforcement, corrections, jail, or secure detention officer, or any agent, staff, contractor, or employee of the Portage County Sheriff's Department.

### **2.20.2 PROHIBITED ACTS**

While in lawful custody or visiting the Jail, no person shall fail to comply, by an act of commission, omission, neglect, or complicity, with:

(A) Any rule promulgated for the safe, orderly prudent, or efficient functioning of the Jail, or

(B) Any lawful order given to him or her by any officer of the Portage County Sheriff's Department.

### **2.20.3 PENALTY**

Any person who violates this ordinance shall be required to forfeit not less than \$50.00 nor more than \$500.00, together with all legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed sixty (60) days.

### **2.20.4 DEFENSES**

It shall not be a defense to violating this ordinance that:

(A) A person in custody at the Jail was not aware of the jail rules, if a copy was given to them at the time they were processed into the facility, or at a subsequent time prior to the violation. Further, it shall not be a defense that the person did not read, keep, or sign for the copy of the rules given to them, or that they were impaired to such a state that they were unable to read or understand the rules.

(B) A visitor to the jail was not forewarned of the rules, if a notice of jail rules was reasonably and clearly posted for the person to read, or that the visitor failed to read the rules so posted.

(C) A person in the custody of the Sheriff of Portage County was not physically supervised or in the Jail building at the time of the violation due to alternative housing arrangements, work release, work detail, court appearances, medical appointments and visits, transportation to or from the Jail or other jail related activities, authorized or unauthorized absences, or other similar reasons.

### **2.20.5 ENFORCEMENT**

The issuance of a citation for violation of this ordinance shall not bar subsequent prosecution under section 946.73 of the Wisconsin Statutes, or other applicable laws or ordinances, nor shall it preclude any administrative actions lawfully taken by any officer of the Portage County Sheriff's Department.

### **2.20.6 SEVERABILITY**

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Portage County Board of Supervisors would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

Adopted by Resolution No. 197-2004-2006 on 3-21-06

## **2.21 STREET NAME AND BUILDING NUMBERING ORDINANCE**

### **2.21.1 AUTHORITY**

Wisconsin Statutes sec. 59.54 (4), authorizes a county to establish and regulate a rural naming and numbering system in towns. The provisions of this ordinance apply to all towns and townships throughout Portage County; but are not applicable to villages and cities.

### **2.21.2 PURPOSE AND SCOPE**

For the purpose of improving the coordination of emergency medical services, fire protection, law enforcement, rescue, and other emergency services and for making uniform address designations throughout Portage County.

### **2.21.3 DEFINITIONS**

For purposes of this Ordinance only, the words listed below have the meaning set forth after them.

1. Street: shall include streets, avenues, county roads, town roads, highways and other public ways, but shall exclude alleys.
2. Building: shall mean each building which fronts on a street; provided, however, it shall not include accessory structures located adjacent to a building.
3. Building Number Identification (BNI): shall be a number assigned for exclusive designation of a building, and shall be comprised of at least three (3) digits.
4. Entrance: shall mean the primary doorway or other principal entrance to a building.
5. Municipality: means a town/township.

#### **2.21.4 ASSIGNMENT OF STREET NAMES**

The assignment of all street names will be coordinated through the Portage County Planning and Zoning Department.

1. The municipality shall submit the proposed street name, or street name change for review, approval, or denial, prior to any other governmental body approval.
2. The municipality shall submit a proposed address range to the Portage County Planning and Zoning Department, upon approval of a street name.
3. The Portage County Planning and Zoning Department, upon approval of new street name or street name change shall, notify the telephone company(s), post office, fire department(s), first responder group, Emergency Management Office, County Register of Deeds Office, appropriate public safety answering point, ambulance service, and rescue agency.
4. The municipality shall install appropriate street name signs within 60 days of final approval and acceptance, by the Portage County Planning and Zoning Department, of street name change(s).
5. The municipality shall install appropriate street name signs within 60 days of final approval and acceptance, by the Portage County Planning and Zoning Department, of a new street name(s) or prior to the commencement of any construction.
6. The municipality shall have financial responsibility for maintenance and installation of all street name signs, public and private, within the municipality except for signs along State highways and County roads.

#### **2.21.5 ASSIGNMENT OF BUILDING NUMBERS IDENTIFICATION**

The municipality will coordinate the assignment of building numbers. The municipality will assign numbers in accordance with the established uniform numbering/grid system of Portage County. (The Towns of Grant and Plover have some exceptions where addressing is extended from Wood County.)

1. Building numbers shall be issued and posted before any construction begins.
2. Building Number Identification (BNI) shall increase sequentially from the base line following the established numbering/grid system of Portage County.
3. Buildings on the north and west sides of the street shall be numbered with even last digit numbers.
4. Buildings on the south and east sides of the street shall be numbered with odd last digit numbers.
5. When two or more residences, apartments, etc. are located in one building, with separate primary entrances, a second or subsequent building number designation will be assigned.
6. When two or more residences, apartments, etc. are located in one building with a common entrance, one building number designation will be assigned with individual location identifiers, either numeric or alphabetic. (e.g. Apt. 1, 2, 3, etc. or Apt. A, B, C, etc.)
7. When two or more residential buildings are located on one lot, one building number designation will be assigned with individual building location identifiers, either numeric or alphabetic (e.g. Unit 1, 2, 3, etc. or Unit A, B, C, etc.). (Mobile home parks will be assigned Lot 1, 2, 3, etc.).
8. When two or more residential buildings share a common access point, but are separate parcels, each residential building will be assigned a separate building number. All Building numbers will be posted according to this ordinance.
9. The municipality shall notify the Portage County Planning and Zoning Department within ten (10) days of being made aware of any need for a building number for any building, structure, or other facility requiring:
  - (a) A building number identification;
  - (b) Correction of existing number;

- (c) Replacement of an existing number;
- (d) Re-assignment of an existing number;
- (e) Elimination of an existing number within the jurisdiction of the stated municipality.

#### **2.21.6 ISSUANCE OF TEMPORARY BUILDING NUMBERS**

1. Temporary building number-plates shall be issued by the Portage County Planning and Zoning Department during the sanitary and/or zoning permit process with appropriate fee structure applied paid by the applicant.
2. Temporary building number-plate shall be installed, according to regulations set forth in this ordinance, before construction begins.
3. The municipality will issue a permanent building number-plate within ninety (90) days of building number issuance, if necessary, to conform with municipality standards.

#### **2.21.7 PLACEMENT OF BUILDING NUMBERS**

1. Building numbers will be installed on the building or structure, in close proximity to the entrance door providing the greatest visibility when the structure is less than 75 feet from the center of the street.
2. Building numbers will be installed approximately 12 feet on either side of a driveway when the structure is more than 75 feet from the center of the street, or if the structure is obstructed by foliage or fencing.
3. Multiple building numbers will be installed approximately 12 feet on either side of private road or private driveway when more than one residence is located on such road/driveway. The building number shall be installed as indicated in number 1 and 2 of this section.

#### **2.21.8 APPEARANCE AND SIZE OF BUILDING NUMBERS**

1. Building numbers that are installed directly on a structure, less than 75 feet from the center of the street shall be, at a minimum, 2.25" wide X 3.5" high in size, either black and white reflective tiles in metal frames, or a substitute standardized building number plate, placed in close proximity to the entrance door. The building owner is financially responsible for maintenance and installation of building number plate.
2. Building numbers that are installed, near the driveway or street where the structure is more than 75 feet from the center of the street, the sign will be consistent with the approved signage of the municipality. The municipality shall have financial responsibility for maintenance and installation of said building number signs.

#### **2.21.9 PENALTY**

1. If the owner, occupant, or agent or any building fails to display and maintain the proper building number assigned to said building within ten (10) days of issuing such building number, he shall be deemed to have violated this ordinance.
2. Any municipality or person in violation of this ordinance shall forfeit to Portage County, upon conviction thereof, an amount not less than \$25.00 nor more than \$250.00 per violation. Each day of violation shall constitute a separate offense.
3. The Portage County Sheriff's Department officers shall have the authority to issue citations.

#### **2.21.10 SUPERVISION**



The Portage County Planning and Zoning Committee shall supervise the Street Name and Building Numbering program and shall set appropriate fee structure.

### **2.21.11 EFFECTIVE DATE**

All ordinances or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict and this ordinance shall be effective upon passage and publication.

Ordinance No. 78-2000-2002 enacted March 20, 2001

Revised Resolution No. 249-2008-2010 on December 15, 2009

Revised Resolution No. 136-2012-2014 on 3-19-13

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### **2.22 MAXIMUM ALLOWABLE AMOUNT FOR DOG DAMAGE CLAIMS**

The maximum allowable amount for damages by dogs to domestic animals under sec. 174.11 Wis. Stats. Shall be one thousand (\$1,000.00) per claim.

Ordinance No. 86-1996-1998 on June 17, 1997

Revised Resolution No. 250-2008-2010 on December 15, 2009

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### **2.23 REGULATION OF PAWNBROKERS AND SECONDHAND SHOPS**

#### 2.23.1 Definitions

(a) "Article" means any items of value.

(b) "Charitable organization" means a corporation, trust, or community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(c) "Customer" means a person with whom a pawnbroker or secondhand shop or an agent thereof, engages in a transaction of purchase, sale, receipt, or exchange of any secondhand article.

(d) "Digital Media Article" means any video game, digital video disc, Blu Ray disc, compact disc, or other audio or video recording.

(e) "Minor" means a person under the age of eighteen years old.

(f) "Municipality" means any city, village, or town within the boundaries of Portage County, Wisconsin.

(g) "Pawnbroker" means any person who engages in the business of lending money on the deposit or pledge of any article or purchasing any article with an expressed or implied agreement or understanding to sell it back at a subsequent time at a stipulated price. To the extent that a pawnbroker's business includes buying personal property previously used, rented, leased, or selling it on consignment, the provisions of this chapter shall be applicable. A person is not acting as a pawnbroker when engaging in any of the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique show, or a convention.
2. Any transaction entered into by a person engaged in the business of junk collector, junk dealer, or scrap processor as described in section 70.995(2)(x), Wis. Stats.
3. Any transaction while operating as a charitable organization or conducting a sale, the proceeds of which are donated to a charitable organization.

4. Any transaction between a buyer of a new article and the person who sold the article when new that involves the return of the article or the exchange of the article for a different, new article.

5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

6. Any transaction as a seller of a secondhand article that the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

(h) "Reportable transaction" means every transaction conducted by a pawnbroker or secondhand shop in which an article or articles are received through a pawn, purchase, consignment, or trade, or in which a pawn is renewed, extended, voided, or redeemed, or for which a unique transaction number or identifier is generated by their point-of-sale software, and is reportable except:

1. The bulk purchase or consignment of new or used articles from a retailer, manufacturer, or wholesaler having an established permanent place of business, and the retail sale of said articles, provided the pawnbroker or secondhand shop must maintain a record of such purchase or consignment that describes each item, and must mark each item in a manner that relates it to that transaction record.

2. Retail and wholesale sales of articles originally received by pawn or purchase, and for which all applicable hold and/or redemption periods have expired.

3. Transactions at secondhand shops where the customer transfers articles to the secondhand shop for in-store credit only.

(i) "Secondhand" means owned by any person, except a wholesaler, retailer or licensed secondhand article dealer, immediately before the transaction at hand.

(j) "Secondhand shop" means businesses that engage in the buying and selling of coins, other collectable currency, jewelry, digital media articles, and/or consumer electronics that have been previously used, rented, or leased.

2.23.2 Inspection of Items. At all times during the term of the license, the pawnbroker or secondhand shop must allow the Sheriff's Office to enter the premises where the licensed business is located, including all off-site storage facilities, during normal business hours, except in an emergency, for the purpose of inspecting such premises and inspecting the items, wares, merchandise, and records therein to verify compliance with this chapter or other applicable laws.

2.23.3 Pawnbroker License. No person may operate as a pawnbroker in Portage County unless the person first obtains a pawnbroker license under this chapter, or from a municipality within Portage County.

2.23.4 Display of Pawnbroker License. Each license issued under this chapter shall be displayed in a conspicuous place visible to anyone entering a licensed premise.

2.23.5 Pawnbroker License Application. A person wishing to operate as a pawnbroker shall apply for a license to the County Clerk. This requirement does not exist for any pawnbroker who shall do business in any municipality that regulates pawnbrokers under its own local ordinance. The Clerk shall furnish application forms approved by the Sheriff's Office that shall require all of the following:

(a) The applicant's name, place and date of birth, residence address, and residence addresses for the 10 year period prior to the date of the application.

Identification shall be required of the applicant as follows:

1. Current, valid Wisconsin driver's license; or

2. Current, valid Wisconsin identification card; or

3. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

(b) The name and address of the business and of the owner of the business premises.

(c) Whether the applicant is a natural person, corporation, limited liability company, or partnership, and:

1. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.

2. If the applicant is a partnership, the names and addresses of all partners.

3. If the applicant is a limited liability company, the names and addresses of all members.

4. The name of the manager or proprietor of the business.
  5. Any other information that the clerk may reasonably require.
- (d) A statement as to whether the applicant, including an individual, agent, officer, director, member, partner, manager or proprietor has been convicted of any crime, statutory violation punishable by forfeiture, or county or municipal ordinance violation. If so, the applicant must furnish information as to the time, place, and offense of all such convictions.
- (e) Whether the applicant or any other person listed in subsection (d) above has ever used or been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places used.
- (f) Whether the applicant or any other person listed in subsection (d) above has previously been denied or had revoked or suspended a pawnbroker license from any other governmental unit. If so, the applicant must furnish information as to the date, location, and reason for the action.
- (g) A certification from the applicable zoning authority that the license will be issuance in compliance with the local zoning ordinance.

2.23.6 Investigation of Pawnbroker License Applicant. The Sheriff's Office shall investigate each applicant and any other person listed in subsection (c) above for a pawnbroker license. The Sheriff's Office shall furnish the information derived from that investigation in writing to the County Clerk. The investigation shall include each agent, officer, member, partner, manager, or proprietor.

#### 2.23.7 Pawnbroker License Issuance.

(a) The County Clerk shall grant the license if all of the following apply:

1. The applicant, including an individual, a partner, a member of a limited liability company, a manger, a proprietor, or an officer, director, or agent of any corporate applicant, does not have an arrest or conviction record, subject to ss. 111.321, 111.322 and 111.335 of the Wisconsin Statutes.
2. If the application or investigation reveals an arrest, conviction, or forfeiture record, the application and all relevant information will be submitted to the Public Safety/Emergency Management Committee of the County for review and decision regarding whether or not a license should be issued to the applicant. The decision of the committee is final.
3. The applicant provides to the County Clerk a bond of \$2,500 with not less than two sureties for the observation of all County ordinances or state or federal laws relating to pawnbrokers. The bond must be in full force and effect at all times during the term of the license.

(b) No license issued under this subsection may be transferred.

(c) Each license is valid from January 1 until the following December 31.

#### 2.23.8 Requirements.

(a) Identification. No pawnbroker or secondhand shop may engage in a transaction of purchase, receipt, or exchange of any secondhand article from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker or secondhand shop shall require the customer to present one of the following types of identification:

1. Current, valid Wisconsin driver's license;
2. Current, valid Wisconsin identification card;
3. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.

(b) Transactions with minors.

1. Except as provided in subsection b2, no pawnbroker or secondhand shop may engage in a transaction of purchase, receipt or exchange of any second hand article from any minor.
2. A pawnbroker or secondhand shop may engage in a transaction described under subsection b1, if the minor is accompanied by his or her parent or guardian at the time of the transaction and the parent or guardian signs the transaction form and provides identification as required by this section.

(c) Records required. At the time of any reportable transaction other than renewals, extensions, or redemptions, every pawnbroker or secondhand shop must immediately record in English the following information by using ink or other indelible medium on forms or in a computerized record approved by the Sheriff's Office:

1. A complete and accurate description of each item, including, but not limited to any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.
2. The purchase price, or the amount of money loaned upon or pledged therefore.
3. The maturity date of the transaction and the amount due, including monthly and annual interest rates and all pawn fees and charges.
4. Date, time and place the item of property was received by the pawnbroker or secondhand shop, and the unique alpha and/or numeric transaction identifier that distinguishes it from all other transactions in the pawnbroker's records.
5. Full name, current residence address, current residence telephone number, date of birth, and accurate description of the person from whom the item of property was received, including sex, height, weight, race, color of eyes, and color of hair.
6. The identification number and state of issue from any of the following forms of identification of the seller:
  - i. Current, valid Wisconsin driver's license;
  - ii. Current, valid Wisconsin identification card;
  - iii. Current, valid photo identification card or photo driver's license issued by another state or province of Canada.
7. The signature of the person identified in the transaction.
8. Renewals, extensions, and redemptions. The pawnbroker or secondhand shop shall provide the original transaction identifier, the date of the current transaction, and the type of transaction for renewals, extension, and redemptions.
9. Record retention. Data entries shall be retained for at least 1 year from the date of transaction.
10. For every secondhand article purchased, received, or exchanged by a pawnbroker or secondhand shop from a customer off the pawnbroker or secondhand shop's premises, or consigned to the pawnbroker or secondhand shop for sale on their premises, the pawnbroker or secondhand shop shall keep a written inventory. In this inventory the pawnbroker or secondhand shop shall record the name and address of each customer, the date, time, and place of the transaction, and a detailed description of the article that is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state he or she owns the secondhand article. The pawnbroker or secondhand shop shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt, or exchange of any secondhand article for not less than one year after the date of the transaction, except as provided in subsection e., and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

(d) Holding Period.

1. Except as provided in subsection d3, any secondhand article purchased or received by a pawnbroker or secondhand shop shall be kept on the premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker or secondhand shop to be the lawful owner of the secondhand article redeems it.
2. During the period set forth in subsection d1, the secondhand article shall be held separate from saleable inventory and may not be altered in any manner. The pawnbroker or secondhand shop shall permit any law enforcement officer to inspect the secondhand article during this period. Within 24 hours after a request of a law enforcement officer during this period, a pawnbroker or secondhand shop shall make available for inspection any secondhand article which is kept off the premises for safekeeping.
3. Subsections d1 and d2 do not apply to a secondhand article consigned to a pawnbroker or any article consigned to or sold to a secondhand shop.

(e) Redemption period. Any person pledging, pawning or depositing any item for security must have a minimum of 60 days from the date of that transaction to redeem the item before it may be forfeited and sold. During the 60 day holding period, items may not be removed from the licensed location. Pawnbrokers are prohibited from redeeming any item to anyone other than the person to whom the receipt was issued, to any person identified in a written and notarized authorization to redeem the property identified in the receipt, or to a person identified in writing by the pledger at the time of the initial transaction and signed by the pledger, or with the approval of the Sheriff's Office. Written authorization for release of property to persons other than the original pledger must be maintained along with the original transaction record in accordance with subsection c9.

(f) Law enforcement order to hold property.

1. Investigative hold. Whenever a law enforcement officer from any agency notifies a pawnbroker or secondhand shop not to sell an item, the item must not be sold or removed from the premises. The investigative hold shall be confirmed in writing by the originating agency within 72 hours and will remain in effect for 15 days from the date of initial notification, or until the investigative order is canceled, or until an order to confiscate is issued, pursuant to subsection 2, whichever comes first.

2. Order to confiscate.

i. If an item is identified as stolen or evidence in a criminal case, the law enforcement agency may physically confiscate and remove it from the shop, pursuant to a written order from the law enforcement agency.

ii. When an item is confiscated, the person doing so shall provide identification upon request of the pawnbroker or secondhand shop, and shall provide the pawnbroker or secondhand shop with the name and phone number of the confiscating officer and the case number related to the confiscation.

iii. When an order to confiscate is no longer necessary, the law enforcement agency shall so notify the pawnbroker or secondhand shop.

(g) Daily Reports to the Sheriff's Office.

1. Pawnbrokers or secondhand shop must submit every reportable transaction to the Sheriff's Office daily in the following manner. Pawnbrokers or secondhand shops must provide to the Sheriff's Office all information required in subsection c and other required information, in an electronic format not later than one business day following the transaction. All such reports shall be transmitted in a form, format, and method previously approved by the Sheriff's Office. The pawnbroker or secondhand shop must display a sign of sufficient size in a conspicuous place on the premises which informs all patrons that all transactions are reported daily to the Sheriff's Office.

2. If a pawnbroker or secondhand shop is unable to successfully report the required reportable transaction information in a form, format, and method previously approved by the Sheriff's Office, the pawnbroker or secondhand shop must provide the Sheriff's Office with printed copies of all reportable transactions by 12:00 noon the next business day.

3. If a pawnbroker or secondhand shop fails to report the required information to the Sheriff's Office within one business day of the transaction, it shall be charged a daily reporting failure fee of \$25.00 per day until the required information is reported properly.

4. Regardless of the cause or origin of the technical problems that prevented the pawnbroker or secondhand shop from uploading the reportable transactions, upon correction of the problem, the pawnbroker or secondhand shop shall upload every reportable transaction from every business day the problem has existed.

5. The provisions of this section notwithstanding, the Sheriff's Office may, upon presentation of extenuating circumstances, delay the implementation of the daily reporting penalty.

(h) Exception for customer return or exchange. Nothing in this section applies to the return or exchange from a customer to a pawnbroker or secondhand shop of any secondhand article purchased from that same establishment.

2.23.9 Receipt Required. Every pawnbroker or secondhand shop must provide a receipt to the party identified in every reportable transaction and must maintain a duplicate of that receipt for 3 years. The receipt must include at least the following information:

(a) The name, address and telephone number of the licensed business.

(b) The date and time the item was received by the pawnbroker or secondhand shop.

(c) Whether the item was pawned or sold, or the nature of the transaction.

(d) An accurate description of each item received, including, but not limited to, any trademark, identification number, serial number, model number, brand name, or other identifying mark on such an item.

(e) The signature or unique identifier of the employee that conducted the transaction.

(f) The amount advanced or paid.

(g) The monthly and annual interest rates, including all pawn fees and charges.

(h) The last regular day of business by which the item must be redeemed by the pledger without risk that the item will be sold, and the amount necessary to redeem the pawned item on that date.

(i) The full name, residence address, residence telephone number, and date of birth of the pledger or seller.

(j) The identification number and state of issue from any of the following forms of identification of the seller:

1. Current, valid Wisconsin driver's License
  2. Current, valid Wisconsin identification card.
  3. Current, valid photo driver's license or identification card issued by another state or province of Canada.
- (k) Description of the pledger or seller, including approximate age, height, weight, race, color of eyes, and color of hair.
- (l) The signature of the pledger.

2.23.10 Label Required. Pawnbrokers or secondhand shops must attach a label to every item at the time it is pawned, purchased or received in inventory from any reportable transaction. Permanently recorded on this label must be the name that identifies the transaction in the shop's records, the transaction date, the name of the item and the description or the model and serial number of the items as reported to the Sheriff's Office, whichever is applicable, and the date the item is out of pawn or can be sold, if applicable. Labels shall not be reused.

#### 2.23.11 Prohibited Acts.

- (a) No minor may pawn or sell or attempt to pawn or sell goods with any pawnbroker or secondhand shop, nor may any pawnbroker receive any goods from a minor, except as otherwise permitted in this ordinance.
- (b) No pawnbroker or secondhand shop may receive any goods from a person of unsound mind or an intoxicated person.
- (c) No pawnbroker or secondhand shop may receive any goods unless the seller presents identification in the form of a valid driver's license, a valid state of Wisconsin identification card, or current, valid photo driver's license or identification card issued by the state of residency of the person from whom the item was received.
- (d) No pawnbroker or secondhand shop may receive any item of property that possesses an altered or obliterated serial number or other identification number, or any item of property that has had its serial number removed.
- (e) No person may pawn, pledge, sell, consign, leave or deposit any article of property not their own, nor shall any person pawn, pledge, sell, consign, leave or deposit the property of another, whether with permission or without, nor shall any person pawn, pledge, sell, consign, leave, or deposit any article of property in which another has a security interest with any pawnbroker.
- (f) No person seeking to pawn, pledge, sell, consign, leave, or deposit any article of property with any pawnbroker or secondhand shop shall give a false or fictitious name, nor give a false date of birth, nor give a false or out-of-state address of residence or telephone number, nor present a false or altered identification or the identification of another to any pawnbroker or secondhand shop.

#### 2.23.12 License Denial, Suspension, or Revocation.

- (a) The Public Safety/Emergency Management Committee may deny, suspend, or revoke any license issued under this section for fraud, misrepresentation, or false statement contained in the application for a license, or for any violation of this chapter of sections 134.71, 943.34, 948.62 or 948.63, Wis. Statutes, or for any other violation of local, state, or federal law substantially related to the businesses licensed under this chapter.
- (b) The Public Safety/Emergency Management Committee may deny, suspend, or revoke any license issued under this section if the applicant is not a citizen of the United States or a resident alien, or upon whom it is impractical or impossible to conduct a background investigation or financial investigation due to the unavailability of information.

#### 2.23.13 Fees.

- (a) The license fee under this chapter shall be \$500.
- (b) If a pawnbroker or secondhand shop fails to report the required information to the Sheriff's Office within one business day of the transaction, it shall be charged a daily reporting failure fee of \$25.00 per day until the required information is reported properly.

2.23.14 Penalty. Any person who is convicted of violating any of the provisions of this chapter shall forfeit not less than \$5 or more than \$2,000, plus the costs of prosecution, and in default of such payment, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not exceeding 90 days. Each day of violation shall constitute a separate offense.

2.23.15 Severability. If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

Resolution No. 32-2010-2012 on June 15, 2010  
Resolution No. 80-2014-2016 on January 20, 2015

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## **2.24 COURTHOUSE AND COUNTY BOARD MEETING SECURITY**

### 2.24.1 Definitions.

- (a) "Clerk" has the same meaning as § 967.02(1) of the Wisconsin Statutes.
- (b) "Contraband" means any item that is illegal to possess under any law or ordinance.
- (c) "Corporation counsel" means the Corporation Counsel of Portage County, any duly qualified deputy or assistant, any employee of the office of the Corporation Counsel, or any attorney working on behalf of the Corporation Counsel.
- (d) "Corrections officer" means both a jail officer as defined under §165.85(2) (bn) and a juvenile detention officer as defined under § 165.85(2) (bt) of the Wisconsin Statutes.
- (e) "Court facility" has the same meaning as § 70.38(2) of the Wisconsin Supreme Court Rules, in addition to any office space related to the District Attorney, relating to the Portage County Courthouse in Stevens Point Wisconsin.
- (em) "Courthouse" means the entire building housing the Circuit Court of Portage County, either located at 1516 Church Street, in the City of Stevens Point, Wisconsin, or some other temporary location that may be authorized by the Court.
- (f) "Dangerous weapon" has the same as § 939.22(10) of the Wisconsin Statutes.
- (g) "District attorney" means the District Attorney of Portage County, any duly qualified deputy or assistant, any employee of the office of the District Attorney, or any attorney working on behalf of the District Attorney.
- (h) "Entry control point" means a location and associated facilities and personnel established to screen persons and articles entering the security area.
- (i) "Judge" has the same meaning as § 967.02(6) of the Wisconsin Statutes.
- (j) "Law enforcement officer" has the same meaning as §165.85(2) (c) of the Wisconsin Statutes.
- (k) "Officer of the court" in this ordinance shall mean a judge, court commissioner, clerk, court reporter, district attorney, corporation counsel, or bailiff.
- (l) "Prohibited item" means any object or substance that is restricted or barred from possessing or using in the security area, specified by a lawfully created regulation by the Sheriff, including firearms or weapons of any kind.
- (m) "Security area" means all portions of the court facility that have been designated by the Sheriff as requiring additional security or the screening of persons entering therein for the safety and security of the public and employees, posted with sufficient signage to alert the public of its presence, whether or not any security officers are present or any particular post is manned and all portions of the facility utilized for lawful meetings of the Portage County Board of Supervisors.
- (n) "Security officer" means any law enforcement officer or court bailiff assigned, permanently or temporarily, for the purposes of screening persons entering the security area, maintaining order and preserving the peace, enforcing laws, ordinances, and orders of the court, and protecting persons therein.
- (o) "Transport officer" shall mean any law enforcement or corrections officer whose primary task is to transport prisoners or other persons in custody to or from the court.
- (p) "Weapon" has the same meaning as § 175.60 (1) (j) of the Wisconsin Statutes.

### 2.24.2. Security Regulations.

- (a) Subject to the authority of the Court, the Sheriff of Portage County shall be authorized to create regulations regarding the safety and security of the court facility.
- (b) Such regulations shall be clearly and plainly posted at the main public entrance to the security area, prior to entering the entry control point.

- (c) Prior to any regulations becoming effective, such regulations shall have the endorsement of the Public Safety/Emergency Management Committee.
- (d) All security regulations subject to this ordinance shall be applicable to all lawful meetings of the Portage County Board of Supervisors held in the courthouse.
- (e) Any violation of a lawfully created security regulations shall be deemed to be a violation of this ordinance, as if fully set forth herein.

#### 2.24.3 Prohibited and Required Acts.

##### (a) No person shall:

- (1) Disobey the lawful order of any security, transport, or law enforcement officer.
- (2) Except as provided below, bring any dangerous weapon, contraband, or prohibited item into the security area.
- (2m) Except as provided below, carry a concealed weapon, a weapon that is not concealed, or a firearm, as defined in § 167.31(1) (c) of the Wisconsin Statutes, that is not a weapon into the courthouse.
- (3) Bypass or attempt to bypass any security measure, including but not limited to posted or locked doors, entry control points, or signage restricting the movement of persons.
- (4) Aid or abet another person in any attempt to bypass any security measure.
- (5) Fail to comply with any lawfully posted sign or placard.
- (6) Attempt to disable, bypass, taper with, or otherwise affect the proper operation of any security device, sign, placard, or physical barrier.
- (7) Violate any regulation lawfully created by the Sheriff regarding the security of the court facility.

##### (b) Screening.

- (1) All persons, except as provided below, shall submit, to screening of their person, articles, and belongings for dangerous weapons by security officers prior to entering the security area.
- (2) Any person in the security area is subject to re-screening by a security officer at any time.
- (3) Persons refusing to submit to such screening shall be denied access to, or removed from, the court facilities.
- (4) Persons found with a dangerous weapon or prohibited item, which is not contraband and is otherwise legal to possess outside of the security area, shall be given the option of securing the item outside of the security area, such as in a vehicle, or surrendering the item to security officers.
- (5) Any item surrendered to, or confiscated by, security officers shall not be returned to the possessor and shall be disposed of in accordance with applicable law.

##### (c) Exceptions.

- (1) Restrictions on the bringing of dangerous weapons, contraband, or prohibited items into the security area shall not apply to items of evidence related to a matter before the court.
- (2) Requirements for screening shall apply to all persons, unless exempted by the Sheriff.
- (3) Officers of the court, law enforcement and transport officers, and authorized maintenance personnel shall be authorized access through posted or locked doors where electronic locks have been installed and access to or from the security area has been granted to that employee. Subject to the authority of the Court, the Sheriff shall have the sole discretion in determining who shall be authorized access through such electronic locks. Any conflicting policy or ordinance shall not apply to the court facilities.
- (4) Restrictions on the possession of a dangerous weapon shall not apply to any on-duty law enforcement or transport officer, or a person exempted under sections 175.60(16)(b) or 941.235(2) of the Wisconsin Statutes.

#### 2.24.3 Penalty.

Any person who violates any provision of this ordinance shall, upon conviction, be subject to a forfeiture of not less than \$200, nor more than \$1000.

Resolution No. 66-2010-2012 on September 21, 2010

Resolution No. 216- 2010-2012 on September 20, 2011

Resolution No. 81-2014-2016 on January 20, 2015

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## **2.25 ENFORCEMENT OF LAWS AGAINST BARRING ENTRIES AND EXITS FOR NONVIOLENT DEMONSTRATIONS**

It is the Policy of the County to enforce applicable state and local laws against the physical barring of an entrance to or exit from a facility or location which is the subject of nonviolent civil rights demonstrations within its jurisdiction.

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## **2.26 PURCHASE AND SALE OF CERTAIN SCRAP METAL**

### 2.26.1 State Law Adopted

Except as specifically provided in this ordinance, all provisions of section 134.405 of the Wisconsin statutes are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any acts required to be performed or prohibited by any statute incorporated by reference herein are respectively required or prohibited by this ordinance.

### 2.26.2 Electronic Records

In accordance with section 134.405(6)(b) of the Wisconsin statutes, all scrap dealers shall submit an electronic report to the Portage County Sheriff's Office of all purchases of nonferrous scrap, metal articles, and proprietary articles not later than one business day following the purchase. Such reports shall include each seller's or deliverer's name, date of birth, identification number, and address, and the number and state of issuance of the license plate on each seller's or deliverer's vehicle.

All such reports shall be transmitted in a form, format, and method previously approved by the Sheriff's Office.

Other provisions of this ordinance notwithstanding, should a dealer temporarily be unable to deliver such reports as required due to technical problems, at the sole discretion of the Sheriff or designee, alternate reporting methods may be approved on a limited and case-by-case basis so long as timely notification is made by the scrap dealer.

### 2.26.3 Penalties

Any person who violates this ordinance shall be required to forfeit not more than \$1000.00 for the first violation and not more than \$10,000 for a subsequent violation, together with all legally applicable costs, fees, and assessments, and in default thereof, shall be subject to imprisonment in the Portage County Jail for a period not to exceed ninety days. Each day on which a scrap dealer knowingly violates this ordinance constitutes a separate violation.

Citations may be issued by the Portage County Sheriff's Office for violations of this ordinance. The issuance of a citation shall not bar subsequent prosecution under section 134.405 of the Wisconsin Statutes, or other applicable laws or ordinances, nor shall it preclude any administrative actions lawfully taken by any officer of Portage County.

## **2.27 SOCIAL HOST**

### 2.27.1 Definitions.

For purposes of this chapter, the following terms have the following meanings:

- (a) "Control" means the power or authority to direct, manage, oversee, supervise, organize, or conduct, and shall also mean hosting, allowing, permitting, or sponsoring. A person need not be present on the premises to be in control.
- (b) "Event or gathering" means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (c) "Host" or "allow" means to aid, conduct, entertain, organize, supervise, control, or permit a gathering or event.

- (d) "Knowingly permit" means there must be evidence or a reasonable inference from evidence that the person knew or should have known that consumption of alcoholic beverages would occur.
- (e) "Premises" shall have the meaning under Section 125.02(14m) of the Wisconsin Statutes, and shall also include all public or private property, regardless of whether said property is described in a license or permit.
- (f) "Public or private location" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or a meeting room, park, or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (g) "Underage person" means a person who has not attained a legal drinking age.

#### 2.27.2 Prohibited Acts.

Notwithstanding Chapter 125 of the Wisconsin State Statutes, or other provisions of this Code of Ordinances, no person may host or allow an event or gathering at any premises or public or private location under the person's control, where alcohol is present, and knowingly permit or fail to take reasonable steps to prevent the possession or consumption of alcohol by an underage person.

- (a) A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with, or otherwise procures another to commit the prohibited act.
- (b) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

#### 2.27.3 Exceptions.

- (a) This chapter does not apply to conduct solely between an underage person and his or her parent, guardian, or spouse who has obtained the legal drinking age while the parent, guardian, or spouse is present and in control of the underage person.
- (b) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.
- (c) This chapter does not apply to legally protected and bona fide religious observances.

#### 2.27.4 Penalties.

A person who violates any provision of this ordinance is subject to a forfeiture of not less than \$300 nor more than \$2,000, plus the costs of prosecution.

#### 2.27.5 Enforcement.

The issuance of a citation for violation of this ordinance shall not bar subsequent prosecution under Chapter 125 of the Wisconsin Statutes, or other applicable laws or ordinances, nor shall it preclude any administrative actions lawfully taken by any officer of the Portage County Sheriff's Office.

(section 2.26 was adopted on 3-18-14)

(section 2.27 was adopted on 6-16-15)

Resolution No. 119-2010-2012 on 12-21-10

Resolution No. 200-2010-2012 on 8-16-2011

Resolution No. 78-2012-2014 on 10-9-2012

Resolution No. 271-2012-2014 on 3-18-14

Resolution No. 132-2014-2016 on 6-16-15

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