

## CHAPTER 24

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24.01 DISORDERLY CONDUCT. Whoever does any of the following shall suffer a forfeiture of not more than \$200 and in lieu of payment assessed imprisonment for not more than sixty (60) days in the county jail.

(l) In a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

(2) Use of telephone:

(a) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.

(b) With intent to frighten, intimidate, threaten, abuse, harass or offend, telephones another and uses obscene, lewd or profane language or suggests any lewd or lascivious act.

(c) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.

(d) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.

(e) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse, threaten, or harass any person at the called number.

(f) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

(3) Operates on public or private property a motor vehicle, motorcycle, snowmobile, or minibike under circumstances which tend to cause or provoke a disturbance or annoy any person, engage in violent or unreasonably loud or otherwise disorderly conduct, including but not limited to unnecessary or intentional spinning of wheels, squealing of tires, revving of the engine, or causing the engine to backfire.

24.02 LOITERING ON SCHOOL GROUNDS. Whoever loiters on any public school grounds or in any public school building within the city between the hours of 6:00 o'clock p.m. and 6:00 o'clock a.m. is subject to a forfeiture not to exceed \$100, or in lieu of payment assessed, imprisonment in the county jail not to exceed thirty (30) days.

24.03 POSSESSION OF OR DRINKING FERMENTED MALT BEVERAGES OR INTOXICATING LIQUOR ON PUBLIC WAYS. Whoever has in his/her possession any open can, bottle, or other vessel containing malt beverages or intoxicating liquor, or who shall drink from the same on any public way, public street, sidewalk, boulevard,

parkway, safety zone, alley or public parking lot, or on and/or in any motor vehicle parked on a public way, public street, alley, or parking lot shall suffer a forfeiture not to exceed \$100 and in lieu of such payment assessed, imprisonment for not more than thirty (30) days in the county jail. The exception being that, at such times and such places as may be specifically excepted temporarily from the provisions hereof by order of the common council.

#### 24.04 DRINKING IN GOERKE MEMORIAL PARK.

(1) Whoever consumes or has in his or her possession fermented malt beverage or intoxicating liquor in Goerke Memorial Park in the City of Stevens Point except as hereinafter provided, shall suffer a forfeiture not to exceed \$120.00 and in lieu of such payment assessed, imprisonment for not more than 30 days in the county jail.

(2) Notwithstanding the provisions of subsection (1) above the K. B. Willett Arena and the recreation center and such other areas as from time to time the common council may declare by resolution, shall be exempt from the provisions of this ordinance as it applies to the consumption and possession of fermented malt beverage.

(3) The consumption and or possession of fermented malt beverage in the K. B. Willett Arena, the recreation center or such other areas as permitted by the common council shall occur only when and under the following conditions:

(a) The city of Stevens Point shall be the exclusive vendor of fermented malt beverage in these areas.

(b) The consumption and or possession of fermented malt beverage is permitted only within the structural confines of the K. B. Willett Arena, the recreation center or designated area.

(c) The consumption and or possession of fermented malt beverage in the K. B. Willett Arena, the recreation center or designated area is permitted only as described by chapter 125 of the Wisconsin statutes as amended.

(4) Notice shall be posted at the entrances of the K. B. Willett Arena and recreation center giving notice of the applicable provisions of this ordinance. Absence of the notices shall not affect the enforcement of the ordinance.

#### 24.05 NON-MOTORIZED BOATS ON MCDILL POND

(1) No person may operate, occupy or use any motorized boat as defined in Wis. Stats. Sec. 30.50(6) except electric trolling motors in any area designated the spring slough on the McDill Pond located in the City of Stevens Point and the Village of Whiting. The spring slough is adjacent to the McDill Pond and is located within a boundary described as follows:

The South one-half (S½) of the Northwest Quarter (NW ¼) of the Southwest Quarter (SW¼), and the North one-half (N½) of the Southwest Quarter (SW ¼) of the Southwest Quarter (SW ¼) located in Section 3, Township 23 North of Range 8 East in the City of Stevens Point, Portage County, Wisconsin. (See attached Map).

(2) Penalties. A) Any person who violates any provision of Section 1 above shall forfeit not less than Ten Dollars (\$10.00) nor more than Seventy-Five Dollars (\$75.00) for the first offense and shall forfeit not less than One Hundred Dollars (\$100.00) upon a conviction of a second or subsequent offense. B) In addition to the forfeitures specified under Section 2(A), the Court may order the defendant to perform or refrain from performing such acts as may be necessary to fully protect and effectuate the public interest in the spring slough. The Court may further order an abatement of a nuisance, restoration of a natural resource or other appropriate action designed to eliminate or minimize any environmental damage caused by the defendant.

#### 24.06 LITTERING

(1) In this section:

(a) "Aircraft" means any structure invented, used or designed for navigation or flight in the air.

(b) "Highway" has the meaning given in section 340.01(22), Wisconsin statutes.

(c) "Vehicle" has the meaning given in section 340.01(74), Wisconsin statutes.

(d) "Waters of the city" has the meaning given in section 281.01(18), Wisconsin statutes, as applicable within the city.

(2) Except as provided in subsection (3), a person who does any of the following is subject to a forfeiture of not more than \$200.00 and in lieu of payment assessed imprisonment for not more than sixty (60) days in the county jail:

(a) Deposits or discharges any solid waste on or along any highway, in any waters of the city, on the ice of any waters of the city or on any other public or private property.

(b) Permits any solid waste to be thrown from a vehicle operated by the person.

(c) Fails to remove within 30 days or otherwise abandons any automobile, boat or other vehicle in the waters of the city.

(d) Owns an aircraft that has crashed in the waters of the city and fails to remove the aircraft from those waters within 30 days after the crash, or within 30

days after the national transportation safety board pursuant to an investigation under 49 CFR Part 831 authorizes its removal, whichever is latest.

(3)

(a) Subsection (2) (a) does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property.

(b) Subsection (2) does not apply to a person who deposits or discharges solid waste in conformance with chapters 30, 31, 281 to 285 or 289 to 299, Wisconsin statutes, or a permit, license or other approval issued by the Wisconsin department of natural resources under those chapters.

#### 24.07 [REPEALED]

24.08 CRUELTY TO ANIMALS. See Section 14.03.

24.09 STORAGE OF REFRIGERATORS, FREEZERS, & OTHER SIMILAR CONTAINERS. Any person who discards or abandons any refrigerator, icebox or deep freeze locker, having a capacity of 1 ½ cubic feet or more, which is no longer in use, and which has not had the door removed, or such portion of the latch mechanism removed to prevent latching or locking of the door, is subject to a forfeiture not to exceed \$100.00 and in lieu of payment assessed imprisonment of not more than thirty (30) days. Any owner, lessee or manager who knowingly permits such a refrigerator, icebox or deep freeze locker to remain on premises under his or her control without having the door removed or such portion of the latch mechanism removed to prevent latching or locking of the door is subject to a forfeiture not to exceed \$100.00 and in lieu of payment assessed imprisonment of not more than thirty (30) days.

24.10 BATTERY. Whoever causes bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

24.11 BATTERY TO PEACE OFFICERS AND FIRE FIGHTERS. Whoever intentionally causes bodily harm to a law enforcement officer or fire fighter, as those terms are defined in section 102.475 (8)(b) and (c), Wisconsin statutes, acting in an official capacity and the person knows or has reason to know that the victim is a law enforcement officer or fire fighter, by an act done without the consent of the person so injured, is subject to a forfeiture of not more than \$200 and in lieu of such payment assessed, imprisonment for not more than sixty (60) days in the county jail.

#### 24.12 FIREARMS AND WEAPONS

(1) Definitions. In sections 24.12, 24.13 and 24.14:

- (a) "Animal" has the meaning specified in section 14.01(l) of this code.
  - (b) "Dangerous weapon" has the meaning specified in section 939.22(10), Wisconsin statutes, except "dangerous weapon" does not include any firearm.
  - (c) "Encased" has the meaning specified in section 167.31(l)(b), Wisconsin statutes.
  - (d) "Facsimile firearm" has the meaning specified in section 941.2965(l), Wisconsin statutes.
  - (e) "Firearm" has the meaning specified in section 167.31(l)(c), Wisconsin statutes.
  - (f) "Handgun" has the meaning specified in section 175.35(l)(b), Wisconsin statutes.
  - (g) "Hunt" or "hunting" has the meaning specified in section 29.01(8), Wisconsin statutes, as amended by 1997 Wisconsin Act 1.
  - (h) "School" has the meaning specified in section 948.61(l)(b), Wisconsin statutes.
  - (i) "School premises" has the meaning specified in section 948.61(l)(c), Wisconsin statutes.
  - (j) "School zone" has the meaning specified in section 948.605(l)(c), Wisconsin statutes.
  - (k) References to the Wisconsin statutes incorporate any future amendments, revisions, modifications or renumbering of any such statute.
  - (l) "Switchblade" means any knife having a blade which opens by pressing a button, spring or other device in the handle or by gravity or by a thrust or movement.
  - (m) "Unloaded" has the meaning specified in section 167.31(l)(g), Wisconsin statutes.
- (2) Firearms -- Possession / Armed With.
- (a) Any person who goes armed with a firearm in any building owned or leased by the state or any political subdivision of the state is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail. This paragraph does not apply to persons specified in section 941.235(2), Wisconsin statutes.

(b) Any person who knowingly possesses a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail. This paragraph does not apply under the conditions specified in section 948.605(2)(b), Wisconsin statutes.

(c) Any person who intentionally goes armed with a handgun on any premises for which a Class "B" or "Class B" license or permit has been issued under chapter 125, Wisconsin statutes, is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail. Premises for the purposes of this paragraph excludes any area primarily used as a residence. This paragraph does not apply to persons or circumstances specified in section 941.237(3), Wisconsin statutes. Any party that claims that an exception under section 941.237(3), Wisconsin statutes, is applicable has the burden of proving the exception by a preponderance of the evidence.

(3) Firearms / Air Guns -- Minors

(a) Any person under 18 years of age who possesses or goes armed with any firearm, air rifle, beebee or pellet-firing gun that expels a projectile through the force of air pressure is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail. This paragraph does not apply to persons as provided in section 948.60(3), Wisconsin statutes, or as provided in section 24.14(3) of this code.

(b) Any person who intentionally sells, loans, or gives any firearm, air rifle, beebee or pellet-firing gun that expels a projectile through the force of air pressure, or ammunition for same, to a person under 18 years of age is subject to a forfeiture of not more than \$200.00, and in lieu of such payment assessed, imprisonment for not more than sixty (60) days in the county jail. This paragraph does not apply to persons as provided in section 948.60(3), Wisconsin statutes, or as provided in section 24.14(3) of this code.

(4) Firearms -- Transportation. Any person who places, possesses or transports any firearm in or on a vehicle in which the firearm is not unloaded and not encased is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail. This subsection does not apply under the conditions specified in section 167.30(4), Wisconsin statutes.

(5) Firearms -- Facsimile. Any person who carries or displays a facsimile firearm in a manner that could reasonably be expected to alarm, intimidate, threaten or terrify another is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail. This subsection does not apply to persons as specified in section 941.2965(3), Wisconsin statutes.

(6) Dangerous Weapons Other Than Firearms.



(a) Dangerous weapon for the purposes of this subsection (6) shall include Bowie knife, switchblade, dirks dagger, sling shot, crossbow, cross knuckle of lead, brass or other metal, gas operated gun, spring gun, or any other device used for the purpose of propelling any hard object by any manner whatsoever, whether such instrument is called by any name set forth herein or by any other name, or any other dangerous weapon. Dangerous weapon for the purposes of this subsection (6) does not include any firearm.

(b) Any person, except a peace officer, who goes armed with any dangerous weapon is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail.

(c) Subsection (b) does not apply to any person on his or her own property or on the property of his or her own residence.

(d) Any person under 18 years of age who possesses or goes armed with any of the following items is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sixty (60) days in the county jail:

1. Metallic knuckles or knuckles of any substance which could be put into the same use with the same or similar effect as metallic knuckles;
2. A nunchaku or any similar weapon consisting of 2 sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather;
3. A cestus or similar material weighted with metal or other substance and worn on the hand;
4. A shuriken or any similar pointed star-like object intended to injure a person when thrown;
5. A manrikigusari or similar length of chain having weighted ends.
6. A device or container that contains a combination of oleoresin of capsicum and inert ingredients.

(e) Subdivisions 1 through 5 of paragraph (d) do not apply as provided in section 948.60(3), Wisconsin statutes.

(f) In this paragraph, dangerous weapon does not include any beebee or pellet-firing gun that expels a projectile through the force of air pressure or any starter pistol. Any person who knowingly possesses or goes armed with a dangerous weapon on school premises is subject to a forfeiture of not more than \$200.00, and in lieu of payment assessed, imprisonment for not more than sb4 (60) days in the county jail. This paragraph does not apply to persons as specified in section 948.61 (3), Wisconsin statutes.

(7) This section is not intended to prohibit the carrying of any instrument necessary to certain trades, crafts, sports or professions during the usual course of such endeavor, provided an individual is allowed by law to possess such instrument.

(8) This section is not intended to prohibit the transportation of any instrument which by law an individual is allowed to possess, if the same is unloaded and dismantled or encased.

(9) Any weapon involved in an offense under this section may be seized and held by the police department until disposition of the charge takes place. Upon conviction of an offense under this section, the court may make such disposition of the weapon as it determines appropriate under the Wisconsin statutes.

#### 24.13 HUNTING IN THE CITY.

(1) Except as specifically provided otherwise by section 24.14 or another section of the revised municipal code or except as specifically authorized by the common council, no person may hunt any wild animal in the city. Whenever an authorization from the city to hunt in the city has any conditions associated with it, no person may exercise such authorization without complying with any and all such conditions.

(2) Whoever violates this section is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

#### 24.14 DISCHARGING FIREARM/GUN/ARCHERY ARROW.

(1) Whoever discharges, except a peace officer, any firearm, spring gun, air gun, or archery arrow within the City of Stevens Point is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed, imprisonment for not more than sixty (60) days in the county jail.

(2) The provisions in section (1) shall not apply on certain public lands during those periods of time designated by the common council as open to hunting by the use of certain weapons.

(3) The provisions in subsection (1) shall not apply to such activities on the following described real estate:

That part of Section 23, Township 24 North, Range 8 East, Town of Hull, County of Portage, State of Wisconsin described as follows:

The Southwest Quarter of the Northeast Quarter, the Northwest Quarter the Southeast Quarter, the Northeast Quarter of the Southwest Quarter and that part of the Southeast Quarter of the Northwest Quarter more particularly described as follows:

Beginning at the Southwest corner of said Southeast Quarter of the Northwest Quarter; thence north along the west line of said Southeast Quarter of the Northwest Quarter to a point 627.80 feet south of the Northwest corner of said Southeast Quarter of the Northwest Quarter of Section 23; thence N29°55'E to a point on the north line of said Southeast Quarter of the Northwest Quarter of Section 23 said point being 360.5 feet east of the Northwest corner thereof; thence east along said north line to its northeast corner thereof; thence south along the east line of said Southeast Quarter of the Northwest Quarter to its southeast corner thereof; thence west along the south line of said Southeast Quarter of the Northwest Quarter to the point of beginning and there terminating.

(4) The provisions in subsection (1) shall not apply to any building, premises or area approved for such discharge by the common council.

(5) The provisions in subsection (1) shall not apply to any person taking rough fish on McDill Pond with a bow and arrow in compliance with the provisions of Wis. Stat. §29.405 and Chapter NR 20, Wisconsin Administrative Code. Bowfishing shall not be allowed within 100 feet of any city park, boat landing, or roadway and shall be allowed only downstream of the Patch Street Bridge.

(6) The provisions in subsection (1) shall not apply to any person discharging an archery arrow/crossbow bolt for purposes of hunting, provided that:

(a) The arrow/bolt is discharged toward the ground; and

(b) The person discharging the arrow/bolt either does so at least 100 yards from all buildings located on land owned by another person, or obtains written permission from such landowners to discharge an arrow/bolt less than 100 yards from any building located on land owned by the person providing such written permission.

(7) The provisions in subsection (1) shall not apply to any person discharging an archery arrow/crossbow bolt for purposes of carrying out deer culling as approved by the Deer Management Committee.

(8) The provisions in subsection (1) shall not apply to any person discharging an archery arrow/crossbow bolt while participating in a physical education program organized by a public or parochial school or the University of Wisconsin-Stevens Point.

#### 24.15 FIREWORKS REGULATED.

(1) The statutory provisions 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) Penalties. Whoever violates the provisions of this section shall suffer a forfeiture of not more than \$200.00 and in lieu of payment thereof imprisoned for a period of not more than sixty (60) days in the county jail.

#### 24.16 DAMAGE TO PROPERTY; GRAFFITI.

(1) Whoever intentionally causes damage to any physical property of another without the person's consent is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

(2) Whoever intentionally marks, draws or writes with paint, ink or another substance on or intentionally etches into the physical property of another without the other person's consent is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

(3) If more than one item of property is damaged under a single intent and design, the damage to all the property may be prosecuted as a single offense. If more than one item of property is marked, drawn or written upon or etched into under a single intent and design, the markings, drawings or writings on or etchings into all the property may be prosecuted as a single offense.

(4) In any case of prohibited damage involving more than one act of prohibited damage but prosecuted as a single offense, it is sufficient to allege generally that prohibited damage to property was committed between certain dates. At the trial, evidence may be given of any such prohibited damage that was committed on or between the dates alleged. In any case under this section involving more than one act of marking, drawing, writing or etching but prosecuted as a single offense, it is sufficient to allege generally that prohibited marking, drawing or writing on or etching into property was committed between certain dates. At the trial, evidence may be given of any such prohibited marking, drawing, writing or etching that was committed on or between the dates alleged.

#### 24.17 TRESPASS TO PROPERTY.

(1) In this section:

(a) "Dwelling unit" means a structure or that part of a structure which is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons maintaining a common household, to the exclusion of all others.

(b) "Implied consent" means conduct or words or both that imply that an owner or occupant of land has given consent to another person to enter the land.

(c) "Inholding" means a parcel of land that is private property and that is surrounded completely by land owned by the United States, by the state of Wisconsin or by a local governmental unit or any combination of the United States, the state of Wisconsin and a local governmental unit.

(d) "Local governmental unit" means a political subdivision of the state of Wisconsin, a special purpose district in the state of Wisconsin, an instrumentality or corporation of the political subdivision or special purpose district or a combination or subunit of any of the foregoing.

(e) "Place of employment" has the meaning given in section 10 1. 0 1 (11), Wisconsin statutes.

(f) "Private property" means real property that is not owned by the United States, the state of Wisconsin or a local governmental unit.

(g) "Undeveloped land" means land that meets all of the following criteria:

1. The land is not occupied by a structure or improvement being used or occupied as a dwelling unit.

2. The land is not part of the curtilage, or is not lying in the immediate vicinity, of a structure or improvement being used or occupied as a dwelling unit.

3. The land is not occupied by a public building.

4. The land is not occupied by a place of employment.

(2) Whoever does any of the following is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail:

(a) Enters the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

(b) Enters any enclosed, cultivated or undeveloped land of another, other than undeveloped land specified in paragraph (e) or (f), without the express or implied consent of the owner or occupant.

(c) Enters any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.

(d) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises.

(e) Enters or remains on undeveloped land that is an inholding of another after having been notified by the owner or occupant not to enter or remain on the land.

(f) Enters undeveloped private land from an abutting parcel of land that is owned by the United States, the state of Wisconsin or a local governmental unit, or remains on such land, after having been notified by the owner or occupant not to enter or remain on the land.

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

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

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

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

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

(4) A person has received notice from the owner or occupant within the meaning of subsection (2)(d), (e) or (f) if he or she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted under this subsection under either of the following procedures:

(a) If a sign at least 11 inches square is placed in at least 2 conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this paragraph were erected or in existence upon the premises to be protected prior to the event complained of shall be prima facie proof that the premises to be protected were posted as provided in this paragraph.

(b) If markings at least one foot long, including in a contrasting color the phrase "private land" and the name of the owner, are made in at least 2 conspicuous places for every 40 acres to be protected.

(5) Whoever erects on the land of another signs which are the same as or similar to those described in subsection (4) without obtaining the express consent of the lawful occupant or holder of legal title to such land is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

(6) An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of sub. (2) (b) or (c) for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions.

(7) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.

(8) This section does not apply to a person entering the land, other than the residence or other buildings or the curtilage of the residence or other buildings, of another for the purpose of removing a wild animal as authorized under section 29.59(2), (3) or (4), Wisconsin statutes.

(9) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with the occupant in the housing area the occupant occupies.

#### 24.18 THEFT.

(1) Acts. Whoever does any of the following may be penalized as provided in section (3):

(a) Intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without his/her consent and with intent to deprive the owner permanently of possession of such property.

(b) By virtue of his or her office, business, or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals, or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his or her authority, and with intent to convert to his or her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his or her possession or custody by virtue of his or her office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his or her own use within the meaning of this paragraph.

(c) Having a legal interest in movable property, intentionally and without consent takes such property out of the possession of a pledgee or other persons having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.

(d) Obtains title to property of another by intentionally deceiving the person with a false representation which is known to be false, made with intent to defraud and which does defraud the person to whom it is made. "False representation"

includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.

(e) Intentionally fails to return any personal property which is in his or her possession or under his or her control by virtue of a written lease or written rental agreement within ten (10) days after the lease or rental agreement has expired.

(2) Definitions.

(a) "Movable property" is property whose physical location can be changed, without limitation including electricity and gas, documents which represent or embody intangible rights and things growing on, affixed to or found in land.

(b) "Property" means all forms of tangible property, whether real or personal, without limitation including electricity, gas, and documents which represent or embody a chose in action or other intangible rights.

(c) "Property of another" includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

(d) "Value" means the market value at the time of the theft or the cost to the victim, of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for, or had a legal interest in, the stolen property the amount of such consideration or value of such interest shall be deducted from the total value of the property.

(3) Penalties. Whoever violates the subsection (1) is subject to a forfeiture of not more than \$300.00 and in lieu of payment thereof imprisoned for a period of not more than ninety (90) days in the county jail.

(4) Use of photographs as evidence. In any action or proceeding for a violation of subsection (1), a party may use duly identified and authenticated photographs of property which was the subject of the violation in lieu of producing the property.

24.19 DOGNAPPING AND CATNAPPING. See Section 14.04.

24.20 FRAUD ON HOTEL OR RESTAURANT KEEPER OR TAXICAB OPERATOR.

(1) Whoever does any of the following may be penalized as provided in subsection (4):



(a) Having obtained any beverage, food, lodging or other service or accommodation at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally absconds without paying for it.

(b) While a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of the relationship as guest.

(c) Having obtained any transportation service from a taxicab operator, intentionally absconds without paying for the service.

(2) Under this section, prima facie evidence of an intent to defraud is shown by:

(a) The refusal of payment upon presentation when due and the return unpaid of any bank check or order for the payment of money, given by any guest to any campground, hotel, motel, boarding or lodging house, or restaurant in payment of any obligation arising out of the relationship as guest. Those facts also constitute prima facie evidence of an intent to abscond without payment.

(b) The failure or refusal of any guest at a campground, hotel, motel, boarding or lodging house, or restaurant, to pay, upon written demand, the established charge for any beverage, food, lodging or other service or accommodation actually rendered.

(c) The giving of false information on a lodging registration form or the giving of false information or presenting of false or fictitious credentials for the purpose of obtaining any beverage or food, lodging or credit.

(d) The drawing, endorsing, issuing or delivering to any campground, hotel, motel, boarding or lodging house, or restaurant, of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for beverage, food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

(3) The refusal to pay a taxicab operator the established charge for transportation service provided by the operator constitutes prima facie evidence of an intent to abscond without payment.

(4) Whoever violates this section is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

(5) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under section 973.20, Wisconsin statutes. A victim may not be compensated under this section and section 943.212, Wisconsin statutes.

(6) A judgment may not be entered for a violation of this section regarding conduct that was the subject of a judgment including exemplary damages under section 943.212, Wisconsin statutes.

24.21 USE OF CHEATING TOKENS. Whoever obtains the property or services of another by depositing anything which he or she knows is not lawful money or an authorized token in any receptacle used for the deposit of coins or tokens is subject to a forfeiture of not more than \$200.00 and in lieu of such payment assessed imprisoned for not more than sixty (60) days in the county jail.

24.22 RETAIL THEFT/SHOPLIFTING.

(1) In this section:

(a) "Merchant" includes any "merchant" as defined in s. 402.104 (3) Wis. Stats. or any innkeeper, motelkeeper or hotelkeeper.

(ar) "Theft detection device" means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.

(as) "Theft detection device remover" means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(at) "Theft detection shielding device" means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(b) "Value of merchandise" means:

1. For property of the merchant, the value of the property; or
2. For merchandise held for resale, the merchant's stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant's stated price, the difference between the merchant's stated price of the merchandise and the altered price.

**(1m)** A person may be penalized as provided in sub. (4) if he or she does any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

(a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.

(b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.

(c) Intentionally transfers merchandise held for resale by a merchant or property of a merchant.

(d) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.

(e) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.

(f) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(g) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.

(h) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

**(3)** A merchant, a merchant's adult employe or a merchant's security agent who has reasonable 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 his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she 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. The merchant, merchant's adult employe or merchant's security agent may release the detained person before the arrival of a peace officer or parent or guardian. Any merchant, merchant's adult employe or merchant's security agent who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.

**(3m)** (a) In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.

(b) A merchant or merchant's adult employe is privileged to defend property as prescribed in s. 939.49 Wis. Stats.

**(4)** Whoever violates this section is subject to a forfeiture of not more than \$300.00 and in lieu of payment thereof imprisoned for a period of not more than ninety (90) days in the county jail.

**(5)** In addition to the other penalties provided for violation of this section, a judge may order a violator to make restitution as set forth in section 943.50 (5), Wis. Stats.

#### 24.23 GAMBLING.

(1) Definitions relating to gambling:

(a) Bet. A bet is a bargain in which the parties agree that, dependent upon chance even though accompanied by some skill, one stands to win or lose something of value specified in the agreement. But a bet does not include:

1. Bona fide business transactions which are valid under the law of contracts including without limitations:

a. Contracts for the purchase or sale at a future date of securities or other commodities.

b. Agreements to compensate for loss caused by the happening of the chance including without limitation contracts of indemnity or guaranty and life or health and accident insurance.

2. Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the bona fide owners of animals or vehicles entered in such contest.

3. A lottery as defined in this section.

(b) Lottery. A lottery is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance, even though accompanied by some skill.

l. "Consideration" in this subsection means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant but does not include any advantage to the promoter or disadvantage to any participant caused when any participant learns from newspapers, magazines and other periodicals, radio or television where to send his name and address to the promoter.

a. In any game, drawing, contest, sweepstakes or other promotion, none of the following shall constitute consideration under this subsection:

- To listen to or watch a television or radio program.

- To fill out a coupon or entry blank which is received through the mail or published in a newspaper or magazine if facsimiles thereof are acceptable.

- To furnish proof of purchase if the proof required does not consist of more than the container of any product as packaged by the manufacturer, or a part thereof, or a facsimile of either.

- To send the coupon or entry blank and proof of purchase by mail to a designated address.

- To fill out a coupon or entry blank obtained and deposited on the premises of a bona fide trade fair or trade show defined as an exhibition by five or more competitors of goods, wares, or merchandise at a location other than a retail establishment or shopping center or other place where goods and services are customarily sold; but if an admission fee is charged to such exhibition all facilities for obtaining and depositing coupons or entry blanks shall be outside the area for which an admission fee is required.

(c) Gambling Machine. A gambling machine is a contrivance which for a consideration affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine.

(d) Gambling Place.

1. A gambling place is any building or tent, any vehicle (whether self-propelled or not) or any room within any of them, one of whose principal uses is any of the following: making and settling bets, receiving, holding, recording or forwarding bets or offers to bet, conducting lotteries, or playing gambling machines.

2. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be professional gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

3. Any gambling place is a public nuisance and may be proceeded against under chapter 823.20 of the Wisconsin statutes.

(e) Bookmaking. "Bookmaking" means the receiving, recording or forwarding of a bet or offer to bet on any contest of skill, speed, strength, or endurance of man or beast.

(f) Wire Communication Facility. "Wire communication facility" means any and all instrumentalities, personnel and services, and among other things the receipt, forwarding, or delivery of communications used or useful in the transmission of writings, signs, pictures, and sounds of all kinds by means of wire, cable, microwave or other like connection between the points of origin and reception of such transmission.

(2) Gambling. Whoever does any of the following is subject to a forfeiture of not more than \$200.00 and in lieu of payment assessed imprisonment for not more than sixty (60) days:

(a) Makes a bet.

(b) Enters or remains in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling machine.

(c) Conducts a lottery, or with intent to conduct a lottery, possesses facilities to do so.

(3) Commercial Gambling. Whoever intentionally does any of the following is subject to a forfeiture of not more than \$200.00 and in lieu of payment assessed imprisonment for not more than sixty (60) days:

(a) Participates in the earnings of or for gain operates or permits the operation of a gambling place.

(b) For gain, receives, records, or forwards a bet or offer to bet or, with intent to receive, record, or forward a bet or offer to bet, possesses facilities to do so.

(c) For gain, becomes a custodian of anything of value bet or offered to be bet.

(d) Conducts a lottery where both the consideration and the prize are money, or with intent to conduct such a lottery, possesses facilities to do so.

(e) Sets up for use for the purpose of gambling or collects the proceeds of any gambling machine.

(f) For gain, maintains in this state any record, paraphernalia, tickets, certificates, bills, slip, token, paper, writing or other device used, or to be used, or adapted, devised or designed for use in gambling.

(g) For gain, uses a wire communication facility for the transmission or receipt of information assisting in the placing of a bet or offer to bet or any sporting event or contest or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of a bet or offer to bet.

(4) Permitting premises to be used for commercial gambling. Whoever intentionally does any of the following is subject to a forfeiture of not more than \$200.00 and in lieu of payment assessed imprisonment for not more than sixty (60) days.

(a) Permits any real estate owned or occupied by him/her or under his/her control to be used as a gambling place.

(b) Permits a gambling machine to be set up for use for the purpose of gambling in a place under his/her control.

24.24 SWIMMING, WATER SKIING, OR BOATING IN VICINITY OF MUNICIPAL BOAT LANDING DOCK. Whoever swims, water skis or operates a power-driven boat with a water skier in tow in the Wisconsin River within a radius of two hundred (200) feet from the municipal boat landing dock located in the Bukolt Park complex is subject to a forfeiture not to exceed \$100.00 or in lieu of payment assessed imprisonment for a period not to exceed thirty (30) days in the county jail.

24.25 CURFEW FOR MINORS SIXTEEN YEARS OF AGE AND UNDER.

(1) Definitions. In this section:

(a) "Curfew hours" means:

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

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

(c) "Parent", "guardian" and "adult" have the meanings given in section 938.02(13), (8) and (1), Wisconsin statutes, respectively.

(2) Loitering of Minors. No person under the age of 17 years may congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city either on foot or in or upon any conveyance being driven or parked thereon, during curfew hours.

(3) Responsibility of Parents. No parent, guardian or other adult person having the care and custody of a person under the age of 17 years may knowingly permit or, by inefficient control, allow such person to congregate, loiter, wander, stroll, stand or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots or any public places in the city either on foot or in or upon any conveyance being driven or parked thereon, during curfew hours. The term "knowingly" includes knowledge that a parent, guardian or other adult person herein should reasonably be expected to have concerning the whereabouts of a juvenile in such person's custody. This requirement is intended to hold a neglectful or careless parent, guardian or other adult person herein up to a reasonable community standard of responsibility through an objective test. It shall, therefore, be no defense that a parent, guardian or other adult person herein was completely indifferent to the activities or conduct or whereabouts of such juvenile. Any parent, guardian or other

adult person herein who shall have made a missing person notification on the minor to the police department shall not be considered to have knowingly permitted such minor to be in violation of this section.

(4) Defense. It is a defense to prosecution under subsection (2) or (3) if one or more of the following apply:

(a) the minor is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control;

(b) the minor is on an errand for his or her parent.

(c) the minor is in a public place because of an emergency;

(d) the minor is engaged in employment or employment-related activities, or going to or returning home from an employment activity, without any detour or stop;

(e) the minor is attending a school, religious or civic organizational activity that is supervised by adults who take responsibility for the minor, or going to or returning home from such activity, without any detour or stop;

(f) the minor is exercising rights or activities under the First Amendment of the United States Constitution or the counterpart in Article I of the Wisconsin Constitution;

(g) the minor is or has been married or is an emancipated minor;

(h) the minor is on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(i) the minor is engaged in interstate travel;

(5) Responsibility of Operators. No person, firm or corporation operating places of amusement or entertainment, or any agent, servant or employee of any person, firm or corporation may permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during curfew hours, unless such person is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control.

(6) Responsibility of Hotels, etc. No person, firm or corporation operating a hotel, motel, lodging or rooming house, or any agent, servant or employee of such person, firm or corporation may permit any person under the age of 17 years to visit, loiter, idle, wander or stroll in any portion of such hotel, motel, lodging or rooming house during curfew hours, unless such person is accompanied by his or her parent, guardian or other adult person having his or her care, custody or control.



(7) Defense. It is a defense to prosecution under subsection (5) or (6) if the owner, operator or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(8) Penalties.

(a) Any person violating subsection (2) is subject to a forfeiture not to exceed \$50.00, and such person may be issued a citation or be referred to juvenile intake under the provisions of Chapter 938 of the Wisconsin Statutes.

(b) Any person violating subsection (3) is for a first offense subject to a forfeiture not to exceed \$50.00 and, for a second or subsequent offense, subject to a forfeiture not to exceed \$100.00 and in lieu of payment thereof imprisoned for not more than thirty (30) days in the county jail.

(c) Anyone violating subsection (5) or (6) is subject to a forfeiture not to exceed \$100.00 and in lieu of payment thereof imprisoned for not more than thirty (30) days in the county jail.

(d) The parent, guardian or other adult person having the care and custody of a person under the age of 17 years subject to this section shall be liable for all costs incurred by the city for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent, guardian or other adult person herein does not pick up the juvenile within one hour after receiving notice from the city that the city is detaining the juvenile for a curfew violation. The amount to be paid by the parent, guardian or other adult person herein shall be based on the hourly wage of the city employee who is assigned to remain with the juvenile plus the cost of benefits for that employee. This paragraph is applicable whether or not a warning is issued under paragraph (a) or whether or not a forfeiture is imposed under paragraph (b) and/or (c).

24.26 JURISDICTION OF CITY OVER OFFENSES. A person is subject to prosecution and punishment under the ordinance of this city if he/she commits an offense, any of the constituent elements of which takes place within the City of Stevens Point, Portage County, Wisconsin.

24.27 CITY ORDINANCE CITATIONS AND BOND SCHEDULE.

(1) Citations. As authorized by Section 66.0113 of the Wisconsin Statutes, the use of a citation is authorized to be issued for violations of ordinances of the city of Stevens Point. The form of the citation shall be in substantial conformance with the format as it appears in Exhibit A attached.

(2) Authorized Representatives Receiving Cash Deposits. The Stevens Point-Plover Municipal Court Clerk and the Stevens Point Chief of Police, and their authorized representatives, shall be authorized to receive cash deposits. The person receiving such deposit shall provide a receipt to the person making such deposit.

(3) Persons Authorized to Issue Citations.

(a) Law enforcement officers of the City of Stevens Point.

(b) Restricted to the issuance of citations for those violations which are directly related to their specific responsibilities:

1. Humane officers of the City of Stevens Point.
2. Parks & Recreation Director of the City of Stevens Point and his/her authorized representatives.
3. Building, electrical, heating, ventilation, housing, plumbing, and street inspectors of the City of Stevens Point and their authorized representatives.
4. Director of Public Works of the City of Stevens Point and his/her authorized representatives.
5. Fire Chief of the City of Stevens Point and his/her authorized representatives.
6. The Comptroller/Treasurer of the City of Stevens Point and his/her authorized representatives.
7. Zoning Administrator and his/her authorized representatives.
8. Director of Community Development and his/her authorized representatives.
9. Neighborhood Improvement Coordinator, and his/her authorized representative

(c) Community Service Officers employed by the Police Department. Such officers shall have the authority to issue citations of the following types:

1. Dog running at large as prohibited by RMC 14.17.
2. Howling animals and other loud animals as prohibited by RMC 14.21.
3. Park closing hours as prohibited by RMC 10.05.

(4) Unauthorized disposition of citations. Any person who, with intent, solicits or aids in the disposition or attempted disposition of a citation in any unauthorized manner shall be in contempt of the court having original jurisdiction of said cause of action.

(5) The basic amount of the deposit for the alleged violation shall be in accordance with Exhibit A attached.

24.28 MASSAGE PARLOR REGULATIONS. It shall be unlawful for any person, corporation, or other legal entity to suffer, cause, or permit the operation of a massage establishment, or for a person to operate as a massage technician, agent, manager, or employee, except in strict compliance with this section.

(1) Definitions. For the purposes of this chapter:

(a) "Manager" means the operator or an agent licensed under this section, who shall not be licensed as a massage technician.

(b) "Massage" means where a consideration passes, any process or procedure consisting of rubbing, stroking, kneading, or tapping, by physical or mechanical means, upon external parts or tissues of the body of another; and for purposes of this chapter shall include: wrestling, dancing, body painting and/or removal of such paint from a body, and manicuring, where one or both of the participants expose one or more sexual or genital parts.

(c) "Massage establishment" means a place of business wherein massage is practiced, used, or made available, or where sex education or sex counseling is carried on by any sex educators or counselors while one or more of the persons present at the counseling session are nude, or where wrestling, dancing, manicuring or similar activities are conducted or permitted while one or more persons expose one or more sexual or genital parts.

(d) "Massage room" means the area where private massage, wrestling, dancing, sex educating, manicuring, body painting, or removal of body paint is performed.

(e) "Massage technician" means a person who, for a consideration, practices, administers, or engages in wrestling, dancing, manicuring, sex counseling, sex educating or massage, whether or not such persons hold a valid license under this section.

(f) "Operator" means any person, association, firm, partnership, or corporation licensed by the city to operate a massage establishment.

(g) "Patron" means any person who receives a massage or participates in sex counseling or education sessions, wrestles, manicures, dances, body paints or removes body paint under such circumstances that it is reasonably expected that money or other consideration will pass between the patron and the manager, operator, owner, or massage technician.

(h) "Sexual or genital parts" shall include the genital, pubic areas, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

(i) "Waiting area" means an area adjacent to the main entrance that is separate from any area where massages are given.

## (2) Massage Establishment License.

(a) No person, corporation, or other legal entity shall suffer, cause, or permit the conduct of a massage establishment without having first obtained a license therefor from the common council. A separate license shall be acquired for each such establishment.

(b) No license shall be granted for any establishment, the main entrance to which is within seventy-five (75) feet of the main entrance to a residence or of the common entry hall to residences, nor for any room or rooms in any hotel or motel.

(c) Application shall be made in writing on forms supplied by the city clerk. If application is made for a location not previously licensed, the city clerk shall by regular mail notify all property owners and registered electors within two hundred fifty (250) feet of the proposed location at least ten (10) days before the hearing on the granting of such license.

(d) All applications shall include:

1. A nonrefundable fee of two hundred fifty dollars (\$250.00).
2. The location and mailing address of the proposed establishment.
3. For an individual or for each person of a partnership or joint venture or agent of a corporation the name and present address; the two immediately previous addresses and dates of residence at each; height, weight, color of hair and eyes, social security number, written proof of age; full set of finger prints and two photographs not less than thirty (30) days old and at least two (2) inches by (2) inches; the business or occupation for the two years immediately preceding the date of application; whether a similar license had been revoked or suspended and, if so, the reason therefor and the location thereof; whether convicted of any crime or ordinance violation other than traffic offenses within the past three years and if so, listing of same and the locations thereof.
4. If the applicant is a corporation, the names and addresses of each officer and director and of the stockholders of such corporation, together with the extent of the ownership of each, and a statement whether such officer, director, or stockholder holds office or stock in any other corporation conducting a similar business in the state of Wisconsin. Such application shall be made by an agent registered as such who shall have been a resident of the city for at least ninety (90) days.
5. All phone numbers of the proposed establishment.
6. Names, addresses, and phone numbers of all persons employed by the applicant at the proposed establishment at the time of application.

7. Certification of compliance of the proposed premises with the building code and fire code; or in the alternative applicant shall file a bond assuring that any work required to be done to bring the premises into compliance therewith shall be accomplished prior to the opening of business. Compliance with such codes and the standards contained herein for health and sanitary operation and the acquisition of a health permit shall be conditions precedent to the opening of business.

8. The application shall contain a statement signed by the applicant and each individual of a partnership or joint venture that all information contained therein is true and correct.

(e) The issuance of this license shall allow for the licensing of up to three additional managers for each establishment.

(3) Massage Technician's and Manager's License.

(a) No person shall act or operate for a consideration as a massage technician or manager without having first obtained a permit to do so.

(b) Applications for permits shall be in writing on forms supplied by the city clerk and shall include:

1. A nonrefundable fee of fifty dollars (\$50.00).
2. Applicant's full name and present address, social security number, written proof of age in excess of eighteen years, height, weight, color of hair and eyes, full set of fingerprints and two photographs not less than thirty (30) days old, and at least two inches by two inches.
3. Applicant's two previous addresses and dates of residence at each.
4. The applicant's business, occupation, or employment during the two years immediately preceding date of application.
5. Whether the applicant has had a similar permit revoked or suspended and, if so, the reason therefor and the location thereof.
6. Whether the applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past three years and, if so, a listing of the same and the locations thereof.
7. For technicians only, a certificate from a licensed physician that the applicant has been examined and found to be free of communicable diseases and showing that such examination occurred less than thirty (30) days prior to the date of application.

8. The name and address of the licensed massage establishment by which the applicant is employed.

9. A statement signed by the applicant that all information contained therein is true and correct.

(4) Regulations of Operations and Licenses

(a) Each establishment shall at all times maintain and comply with the following general regulations:

1. The establishment shall comply with all city codes.

2. Only one nonflashing business sign clearly identifying the establishment as a massage establishment shall be posted at the main entrance. No description of services, written or pictorial, shall be permitted on such sign, the square footage of which shall not exceed that permitted in the zoning district in which the establishment is located, or eighteen (18) feet, whichever is less.

3. No establishment shall be open for business between the hours of 10:00 p.m. and 8:00 a.m.

4. Only massage technicians licensed pursuant to this chapter shall be employed as massage technicians by the establishment.

5. The practice of all massage technicians employed by the establishment shall be limited to the licensed premises.

6. No person under the age of eighteen (18) years shall be permitted on the premises.

7. No alcoholic beverages shall be permitted in the licensed establishment. Food shall be permitted in the licensed premises, but shall be permitted only when there is no charge therefor and when a food preparation area, including sink with hot and cold running water is a part of the establishment.

8. The establishment shall provide a waiting area for patrons separate from any area wherein massages are given. There shall be direct access to this area from the main entrance or from the hallway connected only to the main entrance.

9. The operator or a licensed manager shall be present on the premises at all times during hours of operation and shall be responsible for the operation of the establishment.

10. The establishment shall permit inspections of the premises at any time during business hours by building inspectors, fire inspectors, health inspectors, or personnel of any law enforcement agency.

11. The establishment shall keep current records of the names and addresses of its massage technicians, agents, managers, and employees and the date of employment and termination of each. Such records shall be open to inspection by any of the personnel listed in paragraph j. above.

12. The establishment shall report any change of fact required on the application form and all personnel changes to the city clerk within ten (10) days after such change.

13. The establishment shall maintain a system of giving paper receipts to all patrons. The receipt shall bear on its face the name, address, and telephone number of the patron, and the time and date of issuance. The name of the massage technician(s) who administers to the patron shall appear on the original of the receipt in the technician's own handwriting. No less than once each month an employee of the county health department shall inspect the original receipts. Only health department personnel shall make such inspections. The information therein contained shall be confidential. In the event the health department employee believes one or more patrons should be advised of any fact arising out of the patron's patronage of the massage parlor, the contact shall be in a discreet and private manner in order to protect the privacy of the patron. No other public official shall have access to or be provided with any information on the patron receipt without a specific authorization by resolution adopted by the common council, or by order of a court of competent jurisdiction.

14. The establishment shall be equipped with security deposit facilities capable of being locked by the patron. Sufficient safety deposit facilities shall be furnished so that each patron will have a separate compartment available for storage of clothing and valuables.

15. Every massage establishment shall have a minimum of one shower, one toilet, and one washbasin.

16. If male and female patrons are to be served simultaneously, such massage rooms, dressing facilities, toilet facilities, steam rooms, and sauna rooms as are provided shall be separate for male and female patrons and each such separate facility or room shall be clearly marked as such.

17. Rooms in which massage is to be practiced or administered shall have at least fifty (50) square feet of clear floor area, and shall maintain a light level of no less than forty (40) foot candles as measured at three (3) feet above the floor. Lighting in colors other than white shall be prohibited. Such rooms shall be equipped with cabinets for the storage of clean linen and chemicals and approved receptacles for the storage of soiled linen. Such rooms shall contain a door incapable of being locked from the exterior or interior. Such door shall contain a transparent window pane no less than twelve (12) inches wide and twelve (12) inches long, such that an unobstructed view of the room is provided from a hallway or other common access area which is immediately adjacent to the room.

18. No stuffed or upholstered furniture or beds and mattresses shall be permitted in rooms in which massage is to be practiced or administered. Such rooms shall be equipped with massage tables having a hard surface impervious to liquids with a width of no more than three feet and a length of no more than eight feet. The surface of such tables shall be positioned at least two (2) feet from the surface of the floor so as to allow for free access to the floor beneath. Such tables may be equipped with either nondisposable pads or coverings or disposable coverings not more than two and one-half inches thick. Nondisposable pads or coverings shall be removable, impervious, and cleanable.

19. Massage establishments and massage technicians therein shall prominently and publicly display on the premises their licenses and permits during all hours of operation.

20. Massage establishments shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens shall be stored in cabinets. Towels and linens shall not be used on more than one patron unless they have first been laundered and disinfected. Disposable coverings and towels shall not be used on more than one patron. Soiled linens and paper towels shall be deposited in approved receptacles.

21. Instruments utilized in performing massage shall not be used on more than one patron unless they have been first sterilized, using disinfecting agents or sterilizing equipment approved by the health commission. Massage table pads and reusable table coverings shall be disinfected between each massage with approved chemicals. Chemicals used during massage shall be stored separately in containers clearly labeled as to contents. All chemical containers shall be stored in cabinets reserved solely for such purpose.

(b) Each technician shall at all times comply with the following regulations:

1. The technician shall practice only on the premises of a licensed massage establishment.

2. The technician shall massage only patrons over the age of eighteen (18) years.

3. No technician shall administer a massage if said technician believes, knows, or should know that he or she is not free of any contagious or communicable disease or infection.

4. The technician shall report any change of fact required in the application form to the city clerk within ten (10) days after such change.

5. It shall be unlawful for any person in a massage parlor to place his or her hand or hands upon, to touch with any part of his or her body, to fondle in any manner, or to massage a sexual or genital part of any other person or to offer to do any of the acts described in this paragraph.



6. It shall be unlawful for any person in a massage parlor to expose his or her sexual or genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person in a massage parlor to expose the sexual or genital parts, or any portion thereof, of any other person or to offer to do any of the acts described in this paragraph.

7. It shall be unlawful for any person while in the presence of any other person in a massage parlor, to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body, or to offer to do any of the acts described in this paragraph.

8. It shall be unlawful for any person owning, operating, or managing a massage parlor, knowingly to cause, allow, or permit in or about such massage parlor any agent, employee, or any other person under his/her control or supervision to perform such acts prohibited in subsections 5, 6, and 7 of this section or to offer to hire or permit any person to do any of the acts described in this paragraph.

(5) Revocation or Suspension of License.

(a) Grounds. The license granted herein may be revoked or suspended for up to six months by the common council:

1. If the applicant has made or recorded any statement required by this chapter knowing it to be false or fraudulent or intentionally deceptive.

2. For the violation of any provisions of this section, except for establishment license matters involving violations of city codes in which case the license shall be revoked after the second conviction thereat in any license year.

3. If a technicians or manager's license, after one conviction of any offense under chapter 944 of the Wisconsin statutes or of an offense involving substances included in chapter 961 of the Wisconsin statutes, or of an offense against the person or property of a patron, whether such occurred on or off the premises of the establishment.

4. If an establishment license, after one conviction of any establishment personnel of an offense under chapter 944 of the statutes, or of an offense against the person or property of a patron or of an offense involving substances in chapter 961 of the statutes, where there is shown the participation or knowledge of any other establishment personnel or of any individual within the business structure of the applicant.

(b) Notice and hearing: No license shall be revoked or suspended by the common council except upon due notice and a hearing to determine whether grounds for such action exist. The notice shall be in writing and shall state the grounds of the complaint against the licensee.

The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof. The licensee shall be entitled to be heard, to be represented, to cross-examine opposing witnesses, and to present witnesses in his or her own behalf under the subpoena of the common council, if such is required. The hearing shall be stenographically recorded and a copy of the transcript shall be available to the licensee at the expense of the licensee. The common council shall decide the matter and shall prepare a written decision which shall be filed with the city clerk and a copy thereof mailed to the licensee within twenty (20) days after the hearing.

(6) Exceptions. This chapter shall not apply to the following classes of individuals while engaged in the duties of their respective professions:

(a) Physicians, surgeons, chiropractors, osteopaths, masseurs, or physical therapists licensed or registered to practice their respective professions under the laws of the State of Wisconsin or nurses registered under the laws of the State of Wisconsin acting under their direction and control.

(b) Barber shops and beauty parlors, barbers and beauticians licensed under the laws of the State of Wisconsin provided that such massage as is practiced is limited to the head and scalp.

(c) Accredited high schools and colleges and coaches and trainers therein while acting within the scope of their employment.

(d) Employees of those organizations which are exempt from real estate taxation pursuant to section 70.11 of the statutes, who administer massages upon such exempt premises as a duty assigned such employee by the employer.

(e) A natural person who is the sole owner of an unincorporated massage establishment and personally acts as the operator, manager, massage technician, receptionist, laundry and stock clerk and who personally performs all janitorial services that are performed during the time a customer is upon the premises shall be exempt from the specific foregoing clauses enumerated as: 24.28(2)(b), (d)1, 24.28(3), 24.28(5) except for (b) 5 thru 8.

Further, any such natural person shall, instead of the fee set out in 24.28(2)(d)1, pay an annual fee of twenty-five (\$25) dollars and be exempt from any other fee or license required by this chapter.

(7) Operation without a License a Public Nuisance. The operation of a massage establishment without a license or the activity of an individual as a massage technician without a license is deemed a public nuisance and may be enjoined by the city.

(8) Penalty. Whoever violates this section is subject to a forfeiture of not less than \$500.00 and in lieu of payment thereof imprisoned for a period of not more than one

hundred twenty (120) days in the county jail. Each day of violation shall constitute a separate offense.

(9) Severability. The provisions of any part of the ordinance codified in this chapter are severable. If any provisions of subsection hereof or the application thereof to any person or circumstance is held invalid, the other provisions, subsections, and applications of such ordinance to other persons shall not be affected thereby. It is declared to be the intent of the ordinance codified in this chapter that the same would have been adopted had such invalid provisions, if any, not be included herein.

#### 24.29 PORNOGRAPHIC MATERIAL OR PERFORMANCES.

##### (1) Definitions.

(a) "Distribute" shall mean to transfer possession of, with or without consideration.

(b) "Material" shall mean any printed matter, visual representation, or sound recording, and includes, but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, sculptures, and tape or wire recordings.

(c) "Nudity" shall mean uncovered, or less than opaquely covered, post-pubertal human genitals, public areas, the post-pubertal human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state. For purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

(d) "Performance" shall mean any play, motion picture film, dance, or other exhibition performed before an audience.

(e) "Person" shall mean any individual, partnership, firm, association, corporation, or other legal entity.

(f) "Pornographic" shall mean any material or performance in which the following coalesce:

1. Its dominant theme taken as a whole appeals to a prurient interest in sex.
2. It is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matter.
3. It is utterly without redeeming social value.

(g) "Sado-masochistic abuse" shall mean either:

1. Flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume.

2. The condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude or clad in undergarments or in revealing or bizarre costume.

(h) "Sexual conduct" shall mean ultimate sexual acts, including but not limited to, masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, fellatio, cunnilingus or physical contact with a person's clothed or unclothed genitals, public area, buttocks, anus, or the breast or breasts of a female for the purpose of sexual stimulation, gratification, or perversion.

(i) "Sexual excitement" shall mean the condition of the human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct or nudity.

(2) It shall be unlawful for any person to prepare, publish, print, exhibit, distribute, or offer to distribute or have in his/her possession with intent to distribute or exhibit or offer to exhibit any pornographic material.

(3) It shall be unlawful for any person to give, advertise, produce, exhibit, or perform in any pornographic performance in any playhouse, theater, hall, or other place within the City of Stevens Point.

(4) Exposing Minors to Harmful Materials.

(a) Definitions. For purposes of interpretation in enforcement of this section the definitions contained herein shall apply. Additional definitions are as follows:

1. "Knowingly" shall mean having general knowledge of, or reason to know, or belief, or ground for belief, which warrants further inspection or inquiry of both:

a. The character and content of any material described herein which is reasonably susceptible of examination by the defendant.

b. The age of a minor.

2. "Minor" shall mean any person less than 18 years of age.

(b) It shall be unlawful for any person knowingly to distribute pornographic material to a minor.

(c) It shall be unlawful for any person to exhibit a pornographic performance to a minor. It shall be a violation of this section if any person, for a monetary consideration or other valuable commodity or service knowingly:

1. Exhibits a pornographic performance to a minor.
2. Sells an admission ticket or other means to gain entrance to a pornographic performance to the minor.
3. Permits the admission of the minor to premises whereon there is exhibited a pornographic performance.

(5) Penalties.

(a) Whoever violates subsection (2) or (3) is subject to a forfeiture of not more than \$500.00 and in lieu of payment thereof imprisoned for a period of not more than one hundred twenty (120) days in the county jail.

(b) Whoever violates subsection (4) is subject to a forfeiture of not more than \$1,000.00 and in lieu of payment thereof imprisoned for a period of not more than six (6) months in the county jail.

#### 24.30 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 characteristic, 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 subsection (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 without 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 promptly informed of the purpose for the detention and 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 entitles 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) Whoever violates this section is subject to a forfeiture of not more than \$250.00, and in lieu of payment assessed, imprisonment of not more than seventy-five (75) days.

24.31 RESTITUTION, AUTHORITY TO IMPOSE. In addition to any forfeiture assessed or other penalties provided for any violation of any city ordinance, the court may order restitution as provided in section 66.0119(3)(b) and (c) and in section 66.0114(1)(c) of the Wisconsin statutes.

24.32 ENTRY ONTO CONSTRUCTION SITE OR INTO LOCKED BUILDING, DWELLING, OR ROOM.

(1) Whoever enters the locked or posted construction site or the locked and enclosed building, dwelling, or room of another without the consent of the owner or person in lawful possession of the premises is subject to a forfeiture of not more than \$200.00 and in lieu of payment thereof imprisoned for a period of not more than sixty (60) days in the county jail.

(2) In this section:

(a) "Construction site" shall mean the site of the construction, alteration, painting, or repair of a building, structure or other work.

(b) "Owner or person in lawful possession of the premises" shall include a person on whose behalf a building or dwelling is being constructed, altered, painted, or repaired and the general contractor or subcontractor engaged in that work.

(c) "Posted" means that a sign at least eleven (11) inches square must be placed in at least two (2) conspicuous places for every forty (40) acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land on which the construction site is located and by the

work "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land.

24.33 ATTEMPTED BATTERY, ATTEMPTED THEFT. Whoever attempts to commit a battery as defined by section 24.10 and 24.11 or theft as defined by section 24.18 is subject to a forfeiture of not more than \$150.00 and in lieu of payment thereof imprisoned for a period of not more than forty-five (45) days in the county jail. An attempt to commit a battery or theft requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such violation and that he does acts toward the commission of the violation which demonstrate unequivocally, under all the circumstances, that he formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

#### 24.34 HARASSMENT.

(1) In this section, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(2) Whoever, with intent to harass or intimidate another person, does any of the following is subject to a forfeiture of not more than \$200.00 and in lieu of payment thereof imprisoned for a period or not more than sixty (60) days in the county jail:

(a) Strikes, shove, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.

(b) Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(3) This section does not prohibit any person from participating in lawful conduct in labor disputes under section 103.53, Wisconsin statutes.

24.35 URINATING/DEFECATING ON PROPERTY WITHOUT OWNER'S CONSENT. Whoever urinates or defecates on any public way, public street, sidewalk, boulevard, parkway, safety zone, alley, public parking lot, or on any private property without consent or the owner or occupant is subject to a forfeiture not to exceed \$100.00 and in lieu or payment assessed imprisoned for not more than thirty (30) days in the county jail.

#### 24.36 TRUANCY.

(1) **Definitions:** In this section.

(a) "Dropout" has the meaning given in s. 118.153 (1)(b).

(b) "Habitual truant" has the meaning given in s. 118.16 (1)(a).

(c) "Operating privilege" has the meaning given in s. 340.01 (40).

(d) "Truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16 (4) for part or all of any day on which school is held during a school semester.

(2) Violations of any part of this ordinance relating to "truancy", "habitual truancy", or "drop out" status are hereby declared to be in violation of this ordinance. Whoever does any of the following is subject to the respective disposition as contained below:

(a) Is under 18 years of age and adjudicated as a **truant** as defined herein shall be subject to the dispositions contained in 118.163 (1m) (a) and (b) of the Wis. Stats.

(b) Is under 18 years of age and adjudicated as a **habitual truant** as defined herein shall be subject to the dispositions contained in 118.163 (2)(a) thru (l) of the Wis. Stats.

(c) Is at least 16 years of age but less than 18 years of age and is adjudicated as a **dropout** as defined herein shall be subject to the dispositions contained in Section 118.163 (2m)(a) and (b) of the Wis. Stats.

(3) No person, having under his/her control a child who is between the ages of 6 and 18 years of age, shall allow that child to be in noncompliance with Section 118.15, Wis. Stats. Or its successor statute.

(4) No person age 17 years or older, by an act or omission, shall knowingly encourage or contribute to the truancy of a child. An act or omission contributes to the truancy of a child, whether or not the child is so adjudged, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

(5) **Penalty:**

First offense (w/in one year).....	\$50.00
Second offense (w/in one year).....	\$100.00

24.37 SKATEBOARDS, ROLLER SKATES, ROLLER SKIS, IN-LINE SKATES AND PLAY VEHICLES.

(1) In this section:

(a) "Central business district" shall be defined as provided in section 23.01(12)(a) and (b) of the zoning ordinance of this city.

(b) "In-line skates" has the meaning specified in section 340.01(24m), Wisconsin statutes.



(c) "Play vehicle" has the meaning specified in section 340.01(43m), Wisconsin statutes.

(2) This section is in addition to provisions of the Wisconsin statutes applicable to in-line skates and play vehicles, which are adopted by reference in section 9.01 of this code.

(3) No person may operate or ride a skateboard, roller skates, roller skis, in-line skates or play vehicles in any of the following places:

(a) Within the central business district;

(b) On any public property where signs prohibit it;

(c) On any private property unless permission has been received from the owner, lessee, or person in charge of that property.

(4) It shall be lawful for operators or riders of such skateboards, roller skates, roller skis, in-line skates or play vehicles to use this equipment on non-business sidewalks and alleys provided they shall ride in a careful and prudent manner and with due regard under the circumstances for the safety of all persons using the sidewalk and alley. Such operators or riders shall yield the right-of-way to pedestrians using city sidewalks and shall not otherwise endanger or interfere with pedestrian traffic on those sidewalks, and shall yield the right-of-way to vehicles using the alleys.

(5) This section does not apply to or restrict any person from riding upon in-line skates or upon any play vehicle while crossing a roadway at a crosswalk.

(6) Whoever violates this section is subject to a forfeiture not to exceed \$25.00 and in lieu of payment assessed, imprisoned for not more than five (5) days in the county jail.

#### 24.38 CIGARETTES AND TOBACCO PRODUCTS - MINORS.

(1) In this section:

(a) "Cigarette" has the meaning given in section 139.30(1), Wisconsin statutes.

(b) "Law enforcement officer" has the meaning given in section 30.50(4s), Wisconsin statutes.

(c) "Tobacco products" has the meaning given in section 139.75(12), Wisconsin statutes.

(d) "Nicotine product" has the meaning given in section 134.66(1)(f), Wisconsin Statutes.

(2) Except as provided in subsection (3), no person under 18 years of age may do any of the following:

- (a) Buy or attempt to buy any cigarette, tobacco product, or nicotine product.
- (b) Falsely represent his or her age for the purpose of receiving any cigarette, tobacco product, or nicotine product.
- (c) Possess any cigarette, tobacco product, or nicotine product.

(3) A person under 18 years of age may purchase or possess cigarettes, tobacco products, and/or nicotine products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under section 134.65(1), Wisconsin Statutes.

(4) A law enforcement officer shall seize any cigarette, tobacco product, or nicotine product involved in any violation of subsection (2) committed in his or her presence.

(5) Whoever violates subsection (2) is subject to a forfeiture not to exceed \$25.00.

#### 24.39 PARTIES TO ORDINANCE VIOLATION.

(1) Whoever is concerned in the violation of an ordinance in chapter 24 of the Revised Municipal Code is a principal although he or she did not directly violate and although the person who directly violated has not been arrested, issued a citation or had an action commenced against him or her for the violation or some other violation based on the same act. Such principal may be arrested, be issued a citation, be given the same cash deposit amount specified in section 24.27, have an action commenced against him or her by the city, and be subject to the same penalty, forfeiture amount, assessments, court costs, fees, restitution and jail sentence in lieu of payment, as if such principal had directly violated the ordinance him or herself.

(2) A person is concerned in the violation of an ordinance if he or she:

- (a) Directly violates the ordinance; or
- (b) Intentionally aids and abets the violation of the ordinance; or

(c) Is a party to a conspiracy with another to violate the ordinance or advises, hires, counsels or otherwise procures another to violate the ordinance. Such a party is also concerned in the violation of any other ordinance which is committed in pursuance of the intended violation and which under the circumstances is a natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his or her mind

and no longer desires that the violation be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

#### 24.40 LOITERING AND UNLAWFUL ASSEMBLIES.

(1) Loitering. No person may loiter or prowl in a place, 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, in any public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use, and refuse to obey the lawful command of a police officer to move on or provide to said police officer a lawful reason for remaining on said public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use if the alleged loitering by said person would create or cause to be created any of the following:

(a) Danger of a breach of the peace;

(b) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use reserved for pedestrians;

(c) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use;

(d) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use to fear for his or her safety.

(2) Unlawful Assembly. No person who is a member of a group of three or more persons who are loitering or prowling in a place, 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, in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use shall refuse the lawful command of a police officer to move or provide to said police officer a lawful reason for remaining in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use, whether said group is stationary or in transit, if the alleged loitering would create or cause to be created any of the following:

(a) Danger of a breach of the peace;

(b) The unreasonable danger of a disturbance to the comfort and repose of any person acting lawfully on or in a public way, street, highway, place, alley,

sidewalk, mall or that portion of private property utilized for public use reserved for pedestrians;

(c) The obstruction or attempted obstruction of the free normal flow of vehicular traffic or the normal passage of pedestrian traffic upon any public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use;

(d) The obstruction, molestation or interference or attempt to obstruct, molest or interfere with any person lawfully on or in a public way, street, highway, place, alley, sidewalk, mall or that portion of private property utilized for public use, in a manner that would cause a reasonable person or pedestrian of a public way, street, highway, place, alley sidewalk, mall or that portion of private property utilized for public use to fear for his or her safety.

(3) No person shall be convicted under this section if the police officer failed to comply with the procedure outlined herein.

(4) No person shall be convicted under this section if it appears at trial that the explanation given by the person is true and, if believed by the police would:

(a) have dispelled the fear for human safety;

(b) have dispelled the concern for safety of property;

(c) have dispelled the fear of a breach of the peace;

(d) have provided a justifiable reason for obstructing vehicular or pedestrian traffic, subject to the discretion of the court.

(5) If a person takes flight upon appearance of a police officer who identifies himself as such, or refuses to identify himself or herself, or attempts to conceal himself or herself, said police officer has probable cause to believe a violation of this section has occurred and is hereby duly authorized to make an arrest.

(6) Any person, firm or corporation who violates the provisions of the section is subject to a forfeiture not less than \$500.00 for each offense and in lieu of payment thereof imprisoned for a period of not more than one hundred twenty (120) days in the county jail. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

(7) The provisions of this section shall not apply to solicitation for any lawful business or any lawful charity as defined under section 12.25(4) of the Revised Municipal Code.

## 24.41 RESTRICTIONS ON CIGARETTES AND TOBACCO PRODUCTS.

(1) The provisions of section 134.66 of the Wisconsin statutes regarding restrictions on the sale or gift of cigarettes or tobacco products are hereby adopted and by reference made a part of this code 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 code. Any future amendments, revisions, renumbering or other modifications of any statute incorporated herein are intended to be made part of this code in order to secure conformity with state regulation of cigarette and tobacco products.

(2) Whoever violates subsection (1) shall be subject to the penalties for a local ordinance violation as provided and defined in section 134.66(4) of the Wisconsin statutes.

24.42 (TRUANCY - renumbered on January 17, 2005 to become Section 24.36)

## 24.43 DRUG PARAPHERNALIA.

(1) **Definitions:** In this ordinance the definition of "drug paraphernalia" includes and incorporates by reference the definition as stated in section 961.571, Wis. Stats.

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

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

(4) **Penalty:**

(a) Any person who violates any provision of this ordinance shall, upon conviction, be subject to a forfeiture of not more than \$500.00.

(b) Any person who violates this section, who is under the age of 17, is subject to a disposition under 938.344(2e)

## 24.44 COMPRESSION BRAKES.

(1) Prohibition. No person shall use motor vehicle brakes within the City of Stevens Point which are in any way activated or operated by the compression of the engine of any motor vehicle or any unit or part thereof.

(2) Exception. It shall be an affirmative defense to prosecution under this ordinance that compression brakes were applied in an emergency and were necessary for the protection of persons or property.

(3) Penalty. Any person violating the provision of this subsection shall upon conviction suffer a forfeiture of not more than \$100.00.

#### 24.45 SEXUALLY ORIENTED BUSINESSES.

(1) Purpose and Intent:

(a) It is the purpose and intent of this Ordinance to regulate sexually oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location of sexually oriented businesses within the City, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of 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 the ordinance to condone or legitimize the distribution of obscene material.

(2) Definitions. For the purposes of this ordinance, certain terms and words are defined as follows:

(a) "Sexually Oriented Businesses" are those businesses defined as follows:

1. Adult arcade - means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

2. Adult bookstore, adult novelty store, or adult video store - means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;

b. Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

3. Adult booth - means any area of a sexually oriented business set off from the remainder of such establishments by one or more walls or other dividers or partitions and used to show, play, or otherwise demonstrate any adult material (visual or other representations intended for individuals aged eighteen (18) and older) or to view any live performance that is distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas or the conduct or simulation of specified sexual activities.

4. Adult cabaret - means a nightclub, bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

a. Persons who appear nude or in a state of nudity or semi-nude;

b. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

c. Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

5. Adult motel - means a motel, hotel or similar commercial establishment which:

a. Offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or

b. Offers a sleeping room for rent for a period of time less than ten (10) hours; or

c. Allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

6. Adult motion picture theater - means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

7. Adult theatre - means theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

8. Escort - means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

9. 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.

10. Massage parlor - means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with specified sexual activities, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas. The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program.

11. Sexual encounter establishment - means a business or commercial establishment, that as one of its primary business purposes offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of sexually oriented businesses 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.

12. Adult material - means any of the following, whether new or used:

a. Books, magazines, periodicals, or other printed matter, or digitally-stored materials; or

b. Films, motion pictures, video or audio cassettes, slides, computer displays, or other visual representations or recordings of any kind, that are distinguished or characterized by an emphasis on the exposure, depiction, or description of specified anatomical areas, or the conduct or simulation of specified sexual activities.



c. Instruments, novelties, devices, or paraphernalia that are designed for use in connection with specified sexual activities, or that depict or describe specified anatomical areas.

13. Employee - means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

14. Establishment - means and includes any of the following:

- a. The opening or commencement of any such business as a new business;
- b. The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
- c. The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
- d. The relocation of any such sexually oriented business.

15. Nudity or state of nudity means:

- a. The appearance of the human anal cleft, anus, male genitals, female genitals, or the areola or nipple of the female breast; or
- b. A state of dress which fails to opaquely and fully cover the human anal cleft, anus, male or female genitals, pubic region or areola or nipple of the female breast.

16. Operator - means and includes the owner, permit holder, custodian, manager, operator or person in charge of any premises.

17. Person - means an individual, proprietorship, partnership, corporation, association, or other legal entity.

18. Semi-nude - means a state of dress in which clothing covers no more than the genitals, pubic region, anal cleft, anus, as well as portions of the body covered by supporting straps or devices.

19. Sexually oriented business - means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theatre, adult theater, massage parlor, sexual encounter establishment, or escort agency.

20. Specified anatomical areas - as used in this division means and includes any of the following:

a. Less than completely and opaquely covered human genitals, pubic region, the appearance of the anal cleft, anus, or areola or nipple of the female breast; or

b. Human male genitals in a discernibly turgid state of sexual arousal, even if completely and opaquely covered.

21. Specified sexual activities and/or sexual activity as used in this ordinance mean and include any of the following:

a. Sexual Contact. - The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breast for the purpose of sexually arousing or gratifying either person;

b. Sexual Conduct. - Vaginal intercourse between a male and a female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without the privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal cavity of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse;

c. Masturbation.

22. Straddle Dance. The use by any person, including specifically, but without limitation, a sexually oriented business employee or agent, of any part of his or her body to touch the genitals, pubic region, buttock, anal cleft, anus, or female breast of any sexually oriented business patron or any other person, or the touching of the genitals, pubic region, buttock, anal cleft, anus, or female breast or any person by any sexually oriented business patron. Conduct shall be a "straddle dance" regardless of whether the "touch" is direct or through a medium. Conduct commonly referred to by the slang terms "lap dance," "table dance," "couch dance," and "face dance" shall be included within this definition of straddle dance.

(3) Regulations Applicable To All Sexually Oriented Businesses.

(a) General Compliance. All sexually oriented businesses shall comply with the provisions of this ordinance, all other applicable City ordinances, resolutions, rules, and regulations, and all other applicable Federal, State, and Local Laws dealing with but not exclusively public nuisances, sexual conduct, lewdness or obscene or harmful matter in exhibition or public display thereof.

(b) Hours of Operation. No sexually oriented business shall be open for business between the hours of 2:00 a.m. and 9:00 a.m.

(c) Restrooms. All restrooms in sexually oriented businesses shall comply with Chapter 30.01 (4) of the Stevens Point Revised Municipal Code (hereinafter "Municipal Code") and those adopted provisions stated by reference. No adult materials or specified sexual activity or performance shall be provided or allowed at any time in the restrooms of a sexually oriented business. Separate male and female

restrooms shall be provided for and used by sexually oriented business employees and patrons.

(d) Restricted Access. No sexually oriented business patron shall be permitted at any time to enter into any of the non-public portions of any sexually oriented business, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of sexually oriented business employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the sexually oriented business premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.

(e) Specific Prohibited Acts.

1. No sexually oriented business shall be located within seven-hundred fifty (750) feet of an establishment licensed as a Class B premise (as defined in Chapter 12 Section 12.14 of the Municipal Code) to sell alcohol or dispense fermented malt beverages or intoxicating liquor.

2. No sexually oriented business patron or any other person at any sexually oriented business, other than a sexually oriented business employee employed to provide adult entertainment in accordance with the regulations in this ordinance, shall appear, be present, or perform while nude or semi-nude.

3. No sexually oriented employee or agent shall appear, be present, or perform while in a state of nudity.

4. No sexually oriented business employee or any other person at any sexually oriented business shall perform or conduct any specified sexual activity with or for any sexually oriented business patron or any other sexually oriented business employee or any other person. No sexually oriented business patron or any other person at any sexually oriented business shall perform or conduct any specified sexual activity with or for any sexually oriented business employee or any other sexually oriented business patron or any other person.

(f) Straddle Dance. Straddle dances shall be prohibited at all sexually oriented business establishments.

(g) Exterior Display. No sexually oriented business shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult material, or any entertainment depicting, describing, or relating to specified sexual activities or specified anatomical areas, from any sidewalk, public or private right-of-way, or any property other than the lot on which the sexually oriented business is located. No portion of the exterior of a sexually oriented business shall utilize or contain any flashing lights, search lights, or spotlights, or any other similar lighting systems, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner that describe, present or represent a specified sexual

activity or specified anatomical part, except to the extent specifically allowed pursuant to Subsection (H) of this Section with regards to signs. This subsection shall apply to any advertisement, display, promotional material, decoration, or sign; to any performance or show, and to any window, door, or other opening.

(h) Signage Limitations. All signs of sexually oriented businesses shall comply with, specifically but not limited to, Chapter 25 of the Municipal Code. Signs otherwise permitted pursuant to this Ordinance shall contain only:

1. The name of the sexually oriented business and/or;
2. The specific type of sexually oriented business conducted on the premises.

(i) Noise.

1. No loudspeakers or sound equipment audible beyond the sexually oriented business's premises shall be used at any time.

(j) Manager=s Station. Each sexually oriented business shall have one or more manager=s stations. The interior of each sexually oriented business shall be configured in such a manner that there is a direct and substantially unobstructed view from at least one manager=s station to every part of each area, except restrooms, of the premise's interior to which any sexually oriented business patron is permitted access for any purpose.

(k) Information Posting - Main Entrance. The operator of sexually oriented business shall ensure there are conspicuously displayed at a place near the main entrance of the establishment, or portion thereof, any information, brochures, or pamphlets supplied by the Health Department pertaining to sexually transmitted diseases, including HIV/AIDS.

(l) Information Charges. The Health Department shall charge its reasonable costs for supplying such posters, brochures, pamphlets, and other information supplied under this section.

(m) Security. During live performances, where fifty (50) or more patrons are expected or present, an operator shall ensure there is adequate and readily identifiable security personnel stationed near any room where performers dress or change clothing.

(n) Age Limitations. No person under the age of eighteen (18) shall be allowed to enter, remain, or be employed on the premises of a sexually oriented business, nor be permitted to purchase or receive, whether for consideration or not, any sexually oriented material/adult material or other goods or services at or from any sexually oriented business.

(o) Loitering and Exterior Lighting and Monitoring. It shall be the duty of the operator to:

1. Not allow customers, patrons, or visitors to stand idly by in the premises of any sexually oriented business;

2. Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the sexually oriented businesses are located;

3. Post conspicuous signs stating that no loitering is permitted on such property;

4. Designate one or more employees to monitor the activities of persons on the premise by visually inspecting such property at least once every 30 minutes or inspecting such property by use of video cameras and monitors; and

5. Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. Monitoring of the exterior of the premises shall be done continuously at all times that the premises are open for business.

6. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(4) Special Regulations for Adult Cabarets.

(a) General Requirements. A sexually oriented business that regularly features persons who appear in a state of semi-nudity or live performances that are characterized by specified sexual activities shall be operated in accordance with the following regulations. It is unlawful for an adult cabaret operator to knowingly fail to ensure compliance with the regulations of this subsection and encompassing chapter.

(b) Performance Area. A person shall not appear in a state of semi-nudity or engage in a live performance which is characterized by specified sexual activities except upon designated stages or platforms permanently anchored to the floor (a Cabaret stage@). Each cabaret stage shall be elevated above the level of, and separate from, the patron seating areas. Each cabaret stage shall be elevated at least twenty-four (24) inches above floor level. All parts of the cabaret stage, or a clearly designated area thereof within which the adult cabaret employee or agent appears in a state of semi-nudity or performs, shall be a distance of at least sixty (60) inches from all areas of the premises to which patrons have access. A continuous barrier or railing, the top of which is at least forty-two (42) inches measured from the cabaret stage floor, shall separate each cabaret stage from all patron seating areas.

1. Prohibition.

a. No adult cabaret patron shall be allowed at any time on a cabaret stage.

(c) Prohibited Acts. An adult cabaret employee or agent may not have sexual contact or engage in sexual conduct with a patron, nor may a patron have sexual contact or engage in sexual conduct with an employee or agent. A patron shall not place any money or consideration on the person or in or on the costume of an employee or agent of the sexually oriented business.

(d) Lighting.

1. Sufficient lighting shall be provided and equally distributed throughout the public areas of the adult cabaret premise so that all objects are plainly visible at all times. A minimum lighting level of not less than ten (10) foot candles of light shall be maintained by the operator of the adult cabaret in all areas of the adult cabaret where patrons are admitted.

(e) Tipping.

1. No adult cabaret patron shall offer, and no adult cabaret employee or agent performing on any cabaret stage shall accept, any form of tip or gratuity offered directly or personally to the employee or agent by the patron. Rather, all tips and gratuities for adult cabaret employees performing on any cabaret stage shall be placed into a receptacle provided for receipt of such tips and gratuities by the adult cabaret business.

(f) Notice of Select Rules. A sign at least two feet by two feet, with letters at least one (1) inch high shall be conspicuously displayed on or adjacent to every cabaret stage stating the following:

1. THIS ADULT CABARET IS REGULATED BY THE CITY OF STEVENS POINT ENTERTAINERS ARE:

2. NOT PERMITTED TO ENGAGE IN ANY TYPE OF PHYSICAL SEXUAL CONTACT WITH PATRONS OR OTHER INDIVIDUALS.

3. NOT PERMITTED TO ACCEPT ANY TIPS DIRECTLY OR PERSONALLY FROM PATRONS. ANY SUCH TIPS MUST BE PLACED INTO THE RECEPTACLE PROVIDED BY MANAGEMENT.

4. NOT PERMITTED TO APPEAR, BE PRESENT, OR PERFORM IN A STATE OF NUDITY.

(g) Age Limitations. No adult cabaret employee or agent or patron at an adult cabaret or on premises used therefore shall be under the age of eighteen (18).

(5) Special Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.

## (a) Duties.

1. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room(s) of less than one-hundred (100) square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

a. An operator shall provide the City Building Inspection Department a diagram of the premises showing the location of all manager=s stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. 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 (6) inches. If and when the diagram becomes outdated due to interior changes of the above-mentioned configurations, the operator shall notify the City Building Inspector of the change and provide an appropriate addendum to the diagram.

2. It shall be the duty of the operator, and of any employees 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 in the diagram filed pursuant to paragraph (A)(1) of this section.

3. Interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illuminate of not less than ten (10) foot candle as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied or open for business.

4. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity or sexual conduct occurs in or on the premises between patrons, between patrons and employees/operator or by any of the same individually.

5. It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.

6. It shall be the duty of the operator, or of any employee who discovers two or more patrons in a viewing room or discovers any person making or

attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.

7. It shall be the duty of the operator, or of any employee, who discovers an opening of any kind between viewing rooms to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing the openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.

8. It shall be the duty of the operator, during each business day, to regularly inspect the walls between viewing rooms for openings of any kind.

9. It shall be the duty of the operator, and of any employee on the premises, to initiate and enforce a no loitering policy in all viewing rooms, cubicles or booth enclosures.

10. 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 on each sign, in at least one (1) inch lettering:

- a. NO LOITERING IS PERMITTED IN VIEWING ROOMS;
- b. THE OCCUPANCY OF VIEWING ROOMS IS LIMITED TO ONE PERSON;
- c. SEXUAL ACTIVITY OR SEXUAL CONDUCT ON THE PREMISES IS PROHIBITED;
- d. THE MAKING OF OPENINGS BETWEEN VIEWING ROOMS IS PROHIBITED;
- e. VIOLATORS WILL BE REQUIRED TO LEAVE THE PREMISES;
- f. VIOLATIONS OF THESE SUBSECTIONS 10 (A) - (E) ARE UNLAWFUL;

11. Each viewing room, booth or cubicle shall meet the following construction requirements:

- a. Floor coverings in viewing rooms shall be nonporous, easily cleanable surfaces, with no rugs or carpeting;
- b. Wall surfaces and seating surfaces in viewing rooms, or any room or area providing patron privacy is constructed of, or permanently covered by nonporous easily cleanable material;
- c. Seating within a viewing room shall be designed to accommodate only one person;



d. Viewing rooms, booths or cubicles shall be separated from adjacent booths, rooms or cubicles and any non-public areas by a wall not less than six (6) feet high;

e. Have at least one (1) side totally open to a public lighted aisle and unobstructed by any door, lock or other control-type devices, so that there is an unobstructed view from a manager's station at all times anyone is occupying a booth, room, or cubicle.

f. The lighting level shall be a minimum of ten (10) foot candles at all times, as measured from the floor. If a lesser level of illumination in the aisles is necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles, as measured from the floor.

g. It shall be the duty of the operator to ensure that premises are clean and sanitary at all times.

h. The operator shall ensure there are conspicuously posted inside each booth, cubicle or viewing room an un mutilated and undefaced sign, poster or equivalent supplied by the Health Department which contains information regarding sexually transmitted diseases, and the telephone numbers from which additional information can be sought.

i. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises, including the interior of each viewing room but excluding restroom interiors, to which any patron is permitted access for any purpose. A manager's station shall not exceed 32 square feet of floor area. If the premises has two or more manager's stations designated, then the interior shall be configured in such a manner that there is an unobstructed view from at least one (1) of the manager stations of each area of the premises to which any patron is permitted access. The view required in this paragraph must be by direct line of sight from the manager's stations. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises.

j. The operator shall ensure posted regulations concerning booth, cubicle or viewing room occupancy are labeled on signs, with lettering at least one (1) inch high, placed in conspicuous areas of the premise and in each of the viewing, booth, or cubicle enclosures.

1) The Health Department shall charge its reasonable costs for supplying such posters, brochures, pamphlets, and other information supplied under this section.

k. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises to ensure that the view area from a manager's station, as specified in paragraph eleven (11) i. above, remains unobstructed at all times by any doors, walls, merchandise, display racks, or other materials or enclosures at all times that any patron is present on the premises.

l. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(6) Special Regulations For Adult Novelty Stores.

(a) Age Limitations.

1. No sexually oriented business employee or patron at an adult novelty store shall be under the age of eighteen (18).

2. No person under the age of eighteen (18) shall be admitted to any adult novelty store.

3. No person under the age of eighteen (18) shall be allowed or permitted to remain in any adult store.

4. No person under the age of eighteen (18) shall be allowed or permitted to purchase or receive, whether for consideration or not, any adult material or other goods or services at or from any adult novelty store.

(7) Special Regulations for Adult Motels.

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten hours (10) creates a rebuttable presumption that the establishment is an adult motel as the term is defined in this chapter.

(b) It shall be unlawful for a person who is in control of a sleeping room in a hotel, motel, or similar commercial establishment to rent or subrent a sleeping room to a person and within ten hours (10) from the time the room is rented, rent or subrent the same sleeping room again.

(c) For the purposes of subsection (B) of this section, the terms "rent" or "subrent" mean the act or permitting a room to be occupied for any form of consideration.

(8) Special Regulations for Adult Theaters.

(a) Seating. Each adult theater shall provide seating only in individual chairs with arms or in seats separated from each other by immovable arms and not on

couches, benches, or any other multiple person seating structures. The number of seats shall not exceed the maximum number of persons allowed to occupy the adult theater.

(b) Aisle. Each adult theater shall have a continuous main aisle alongside the seating area in order that each person seated in the adult theater shall be visible from the aisle at all times.

(c) Sign. Each adult theater operator shall post a conspicuous sign located at or near the main entrance of the adult theater that lists the maximum number of person who may occupy the theater at any one time, and this number shall not exceed the number of seats in the auditorium or viewing area of the adult theater.

(9) Nuisance Declared.

(a) Any sexually oriented business established, operated, or maintained in violation of any the provisions or requirements of this ordinance shall be declared to be unlawful and a public nuisance. The City may, in addition to or in lieu of any other remedies set forth in this ordinance or the City's Municipal Code, commence an action to enjoin, remove, or abate such nuisance in the manner provided by law and shall take such other steps and apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such public nuisance, and restrain and enjoin any person(s) from establishing, operating, or maintaining a sexually oriented business contrary to the provisions of this ordinance.

(10) Penalty.

(a) Any person who violates, or knowingly allows or permits any violation of, any provision of this ordinance, shall be subject to a forfeiture of not less than \$100.00 and not more than \$1000.00 per violation. Failure or refusal to pay a forfeiture may result in imprisonment for a period of not more than twenty five (25) days for each offense.

A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues.

(11) Severability.

(a) If a court of competent jurisdiction deems any provision of this ordinance invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions of the same. The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the court's decision, portions remaining in the ordinance shall retain the full force and effect thereof.

## 24.46 DUTIES OF CITIZENS.

(1) False Alarms, Meddling, Etc. No person shall give, or cause to be given, a false fire alarm with intent to deceive any public official or employee, or to pull the lever of any fire signal box, except in accordance with regulations established for its use or to tamper, meddle, or to interfere in any way with such boxes, or any part thereof, or to cut, injure, break, deface, or remove any of such boxes, or any of the wires or supports thereof connected with any part of any system; or to make any connection or communication therewith so as to interrupt or interfere with the proper working of said systems, or with intent to injure, break, or destroy any machinery or fixtures connected with said systems.

(2) Assistance from Citizens. No person shall neglect or refuse to render assistance when lawfully called upon to do so by any fire department officer at a fire, or shall refuse to obey any lawful order of any officer or person connected with the department while on duty at a fire.

(3) Injury to Fire Hose. No person shall wantonly or maliciously cut or otherwise injure any hose or apparatus belonging to or used by the fire department.

(4) Obstruction of Fire Hydrants. No person shall obstruct or interfere with the use of any fire hydrant in the city by piles of lumber, building material, articles of merchandise, the excavation or removal of buildings, dirt or rubbish or in any other way or manner unless by permission of a duly authorized city officer. Every day that said interference or obstruction shall continue shall be regarded as a separate offense.

(5) Interfering with Fire Fighting Equipment. No person shall interfere with, tamper with or remove, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment.

## 24.47 BUREAU OF FIRE PREVENTION.

(1) That Chapter 14 of Commerce of the Wisconsin Administrative Code is hereby adopted by reference including amendments that the State of Wisconsin may from time to time create.

(2) Establishment and Duties of Bureau of Fire Prevention.

(a) The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention in the fire department of the City of Stevens Point.

(b) The chief, or deputy chief, in charge of the bureau of fire prevention shall be appointed by the board of police & fire commissioners.

(c) The chief of the fire department may detail such members of the fire department as inspectors as shall from time to time be necessary. The chief of the fire department shall recommend to the common council the employment of

technical inspectors who, when such authorization is made, shall be selected through an examination to determine their fitness for the position. The examination shall be open to members and non-members of the fire department and appointments made after examination shall be for an indefinite term with removal only for cause.

(d) A report of the bureau of fire prevention shall be made annually and transmitted to the chief executive of the police & fire commissioners. It shall contain all proceedings under this code, with such statistics as the chief may wish to include therein. The chief shall also recommend any amendments to the code which, in his/her judgment, shall be desirable.

(3) Definitions.

(a) Municipality shall mean the City of Stevens Point.

(b) Corporation Counsel shall mean the attorney for the City of Stevens Point.

(4) Establishment of Limits of Districts in Which Storage of Explosives and Blasting Agents is to be Prohibited. The limits referred to in section 12.5b of the Fire Prevention Code in which storage of explosives and blasting agents is prohibited are hereby established as follows: The city limits of the City of Stevens Point.

(5) Establishment of Limits of Districts in Which Storage of Flammable Liquids in Outside Aboveground Tanks is to be Prohibited.

(a) The limits referred to in section 16.22a of the Fire Prevention Code in which storage of flammable liquids in outside aboveground tanks is prohibited are hereby established as follows: The city limits of the City of Stevens Point.

(b) The limits referred to in section 16.61 of the Fire Prevention Code in which new bulk plants for flammable or combustible liquids are prohibited are hereby established as follows: All areas within the city limits of the City of Stevens Point except those areas designated "B Industrial" by the Zoning Ordinance of the city and in such "B Industrial" districts in accordance with the regulations and requirements of said Zoning Ordinance.

(6) Establishment of Limits in Which Bulk Storage of Liquefied Petroleum Gases is to be Restricted. The limits referred to in section 21.6a of the Fire Prevention Code in which bulk storage of liquefied petroleum gas is restricted are hereby established as follows: The city limits of the City of Stevens Point as further limited, prohibited, or restricted by the Zoning Ordinance of the City of Stevens Point.

(7) Establishment of the Motor Vehicle Routes for Vehicles Transporting Explosives and Blasting Agents. The routes referred to in section 12.7m of the Fire Prevention Code for vehicles transporting explosives and blasting agents are hereby established as follows: There is no established or designated route. Persons

transporting explosives, or other dangerous articles, shall contact the police department for escort in or through the city.

(8) Establishment of Motor Vehicle Routes for Vehicles Transporting Hazardous Chemicals or Other Dangerous Articles. The routes referred to in section 20.14 of the Fire Prevention Code for vehicles transporting hazardous chemicals and other dangerous articles are hereby established as follows: There is no established or designated route. Persons transporting dangerous explosives, hazardous chemicals, or other dangerous articles shall contact the police department for escort in or through the city.

(9) Establishment of Fire Lanes on Private Property Devoted to Public Use. The fire lanes referred to in section 28.16 of the Fire Prevention Code are hereby established as follows: None.

(10) Amendments Made in the Fire Prevention Code. The Fire Prevention Code is amended and changed in the following respects: The chief of the bureau of fire prevention shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee, or his/her duly authorized agent, when there are difficulties in the way of carrying out the strict letter of the code, providing that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed by the decision of the chief of the bureau of fire prevention shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

(11) Appeals. Whenever the chief of the bureau of fire prevention shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the bureau of fire prevention to the board of police & fire commissioners within 30 days from the date of the decision appealed.

(12) New Material, Processes, or Occupancies Which May Require Permits. The mayor, the chief of the fire department, and the chief of the fire prevention bureau shall act as a committee to be heard, any new materials, processes, or occupancies which shall require permits in addition to those now enumerated in said code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his/her office and distribute copies thereof to interested persons.

(13) Above and Below Ground Storage Tanks.

(a) No person shall install, remove, or upgrade a tank or system over 60 gallons and under 5000 gallons without first obtaining a permit from the fire chief or duly appointed certified inspectors. The schedule of permit fees for tank removal or installation shall be as follows:

- 1. Initial permit fee..... \$75.00
- 2. Tank removals and or installations (per tank)..... \$50.00
- 3. System upgrades. (For system upgrades including the installation of overfill protection, installation of spill protection, installation of tank leak detection, and the installation of line leak detection)..... \$65.00

(b) All tanks, dikes, appurtenances, piping, pumping equipment, and other equipment must comply with Wis. Adm. Code DILHR 10.

(14) Penalties.

(a) Any person who shall violate any of the provisions of the code hereby adopted or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the board of police & fire commissioners or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable by a fine of not less than \$25 nor more than \$200 or by imprisonment for not less than five days nor more than 30 days, or by both such fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(15) Repeal of Conflicting Ordinances. All former ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance or of the code hereby adopted are hereby repealed.

Should any section, paragraph, sentence, or word of this ordinance be declared for any reasons to be invalid, it is the intent of the common council that it would have passed all other portions of this ordinance independent of the elimination here from of any such portion as may be declared invalid.

24.48 OUTDOOR, ORDINARY COMBUSTABLE-FIRED/FUELED, FURNACES

(1) A commercially manufactured outdoor wood-fired furnace may be installed and used in the City of Stevens Point only in accordance with the following provisions:

(a) The outdoor ordinary combustible-fired furnace may only be installed and used in an area zoned M-1 Light Industrial or M-2 Heavy Industrial.

(b) The outdoor ordinary combustible-fired furnace shall burn only clean dry firewood and not be used to burn any of the prohibited materials listed in Section 6.09 of this ordinance.

(c) The outdoor ordinary combustible-fired furnace shall be located at least 300 feet from the nearest land zoned any Residential District which is not on the same property as the outdoor ordinary combustible-fired furnace.

(d) The outdoor ordinary combustible-fired furnace shall have a chimney that extends at least 15 feet above the ground surface. If there are any residences within 300 feet, the chimney shall also extend at least as high above the ground surface as the height of the roofs of all such residences. The Fire Chief may approve a lesser height on a case by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors. The Fire Chief may order changes to the installation, chimney height, or operation, if, in the Fire Chief's opinion, the operation of the outdoor ordinary combustible-fired furnace results in a nuisance to other properties. In the event the operation of the furnace continues to result in a nuisance to other properties, the Fire Chief shall have the authority to order suspension or discontinuance of operation of the outdoor ordinary combustible-fired furnace. An affected individual or persons within 600 of the operator of the outdoor furnace may appeal the determination of the Fire Chief to the Public Policy and General Government Committee which shall review the same to determine whether the outdoor furnace is injurious to the health, welfare or safety of the occupants of the neighboring property(ies).

#### (2) Liability

(a) A person utilizing or maintaining an outdoor ordinary combustible-fired furnace shall be responsible for all fire suppression costs and any other liability resulting from damage caused by an uncontained fire.

#### (3) Right of Entry and Inspection

(a) Right of entry and inspection. The Fire Chief or any authorized officer, agent, employee or representative of the City of Stevens Point who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this ordinance. Note: If the owner or occupant of the premises denies access to the property for this purpose, a special inspection warrant may be obtained in accordance with sections 66.122 and 66.123, Wis. Stats.

#### (4) Enforcement and Penalties

(a) The Fire Chief and City Building Inspection Department are authorized to enforce the provisions of this ordinance.



(b) The penalty for violation of any portion of this ordinance shall be a forfeiture as provided in this ordinance plus the cost of prosecution. Penalties are doubled for second and subsequent offenses.

#### 24.49 POLICE OFFICERS AND DEPARTMENT EMPLOYEES.

##### (1) Police Officers.

(a) Duties. Every officer, in carrying out the functions of the department, namely, the preservation of public peace, the protection of life and property, the prevention of crime, the arrest of violators of the law, and the proper enforcement of all laws and ordinances of which the department takes cognizance, shall constantly direct his/her best efforts to accomplish that end, intelligently and efficiently, and shall hold himself/herself in readiness at all times to answer the calls and obey the orders of his/her superiors. The officer shall be held to strict accountability for the good order of his/her beat or post to which he/she may be assigned to duty and shall have such regular hours of duty and be subject to such additional rules and regulations as may be prescribed by the chief.

Members of the department shall at all times within the boundaries of the city preserve the public peace, prevent crime, detect and arrest violators of the law, protect life and property, and enforce all criminal laws of the State of Wisconsin and the ordinances of the city of which the department must take cognizance.

(b) Civilians to Assist. It shall be the duty of all persons in the City when called upon by any police officer, to promptly aid and assist him/her in the execution of his/her duties.

(c) Probation Period. All original appointments to the police department shall be for a probationary period of eighteen (18) months continuation in the service being dependent upon the conduct of the appointee and his/her fitness for the performance of the duties to which assigned, as indicated by reports of his/her superior officers. If, during the said 18 months, the appointee proves unfit, he/she will be dropped from the service and shall not be entitled to an appeal to the Board of Police & Fire Commissioners from such discharge.

(d) Uniforms and Insignia. Members of the department shall wear such uniform and insignia of rank and be provided with such equipment as the chief may from time to time prescribe.

(e) Prisoners Taken to Headquarters. All persons arrested by members of the department shall be taken to police headquarters unless it is impracticable to do so, in which case prisoners may be taken to the county jail. This provision shall not apply to arrests made for violations of city ordinances, in which case disposition shall be at the discretion of the arresting officer.

##### (2) Employees of Department.

(a) Supervision by Chief. Employees of the department shall be subject to the orders of the chief and they shall also be subject to the general rules and regulations of the department insofar as the same may be applicable.

All employees of the department whose duties are not specifically enumerated in the rules and regulations of the department shall be assigned to such duties and have such hours of duty as may be directed by the chief.

(b) Duties and Conduct. Department employees shall perform their respective duties in a thoroughly efficient and capable manner and shall at all times be discreet, courteous, diligent, and attentive, and will call the attention of their immediate superiors to any matters of subjects which require the special consideration of such superiors.

They shall at all times be neat and clean in appearance as their work permits, of good and proper habits, and keep in good order any desk, books, lockers, tools, or other equipment that they may use or that may be entrusted to their care.

#### 24.50 PROHIBITION OF SYNTHETIC CANNABINOID SUBSTANCES

##### (1) Synthetic Cannabinoid Prohibited.

(a) Possession, use and sale are illegal. It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give or barter any one or more of the following chemicals whether under the common street or trade names of "Spice", "K2", "Genie", "Yucatan Fire", "fake" or "new" marijuana, or by any other name, label or description:

1. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-o1 some trade or other names: HU-210.
2. 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018\spice.
3. 1-Butyl-3-(1naphthoyl) indole-some trade or other names: JWH-073.
4. 1-(3{trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP.
5. Or any similar structural analogs.

(b) Medical or dental use allowed. Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(c) Penalties. Any person violating this ordinance shall be subject to the following forfeitures:

1. Possession/Use. A forfeiture of Two Hundred Fifty Dollars (\$250.00), exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than thirty (30) days.

2. Sale. A forfeiture of Five Hundred Dollars (\$500.00), exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than thirty (30) days. (Ord. 24.50, 2010.)

#### 24.51: CHRONIC NUISANCE PREMISES.

(1) FINDINGS. The Common Council finds that any premises, including a manufactured home community, that has generated 3 or more responses from the City of Stevens Point Police Department for nuisance activities has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the City. The Common Council further finds that premises owners and other parties conducting business activities upon the premises who chronically fail to control the use of their property substantially interfere with the comfortable enjoyment of life, health, and safety of the community. The Common Council therefore directs the Chief of Police, the Comptroller/Treasurer, and the City Attorney, as provided in this section, to charge the owners of such premises the costs associated with abating the violations at such premises where nuisance activities chronically occur.

(2) DEFINITIONS. For the purposes of this Subsection:

- (a) "Chief of Police" means the chief of the police department or the Chief's designee. The Chief's designee includes, but is not limited to, a commanding officer signing a notice under RMC ss. 24.51(3)(a)(i) or 24.51(3)(a)(ii) or any other specifically named designee in any notice under this section.
- (b) "Manufactured home community" means any plot or plots of ground upon which 3 or more manufactured homes that are occupied for dwelling or sleeping purposes are located.
- (c) "Nuisance activity" means any of the following activities, behaviors or conduct whenever engaged in by persons associated with a premises:
  - (i) An act of harassment as defined in s. 947.013, Wis. Stats.
  - (ii) Disorderly conduct as defined in RMC s. 24.01 or s. 947.01, Wis. Stats.
  - (iii) Mistreatment of animals as defined in RMC s. 14.03, or any other violation of RMC ch. 14 or ch. 951, Wis. Stats.
  - (iv) Indecent exposure as defined in s. 944.20(1)(b), Wis. Stats.
  - (v) Keeping a place of prostitution as defined in s. 944.34, Wis. Stats., or leasing a building for the purposes of prostitution as defined in s. 944.34, Wis. Stats.

- (vi) Littering of premises as defined in RMC s. 24.06.
- (vii) Theft as defined in RMC s. 24.18 or s. 943.20, Wis. Stats.
- (viii) Arson as defined in s. 943.02, Wis. Stats.
- (ix) Possession, manufacture or delivery of a controlled substance or related offenses as defined in ch. 961, Wis. Stats.
- (x) Gambling as defined in RMC s. 24.23 or s. 945.02, Wis. Stats.
- (xi) Crimes against life and bodily security as enumerated in ss. 940.01 to 940.32, Wis. Stats., other than as prescribed in subpar. (xxix) of this paragraph.
- (xii) Crimes involving illegal possession or use of firearms as defined in ss. 941.20 to 941.299, Wis. Stats. and s. 948.60, Wis. Stats.
- (xiii) Trespass to land as defined in s. 943.13, Wis. Stats. or criminal trespass to a dwelling as defined in s. 943.14, Wis. Stats.
- (xiv) Any act of aiding and abetting, as defined in s. 939.05, Wis. Stats., of any of the activities, behaviors or conduct enumerated in subpars. (c)(i) to (c)(xii) of this paragraph.
- (xv) Any conspiracy to commit, as defined in s. 939.31, Wis. Stats., or attempt to commit, as defined in s. 939.32, Wis. Stats., any of the activities, behaviors or conduct enumerated in subpars. (c)(i) to (c)(xiii) of this paragraph.
- (xvi) Discharge of a firearm, gun, or archery arrow as defined in RMC s. 24.14.
- (xvii) The production or creation of excessive noise as defined in RMC s. 21.03(14).
- (xviii) Loitering as defined in RMC s. 24.40.
- (xix) Open intoxicant violations as defined in RMC s. 24.03.
- (xx) The sale, offering for sale, bartering or giving away of any intoxicating liquors or fermented malt beverages without a license as provided in RMC s. 12.14 or s. 125.04(1), Wis. Stats.
  
- (xxi) The possession of counterfeit items as defined by s. 132.02, Wis. Stats.
  
- (xxii) Selling or giving away tobacco products to persons under the age of 18 as defined in RMC s. 24.41 and s. 134.66(2), Wis. Stats.
- (xxiii) The possession, possession with intent to sell or deliver, or delivery of drug paraphernalia as defined in RMC s. 24.43.
- (xxiv) Illegal sale, discharge, and use of fireworks as defined in RMC s. 24.15 and s. 167.10, Wis. Stats.
- (xxv) Truancy and contributing to truancy as defined in RMC s. 24.36.
- (xxvi) Underage alcohol activities, as defined in RMC s. 12.14(12) and s. 125.07, Wis. Stats.
- (xxvii) Robbery as enumerated in s. 943.32, Wis. Stats.
- (xxviii) Receiving or concealing stolen property as enumerated in s. 943.34, Wis. Stats.
- (xxix) "Nuisance activity" does not include activities, behaviors, or conduct that result in a call for assistance made by an owner or other responsible party

- (xxx) "Nuisance activity" does not include activities, behaviors, or conduct that results in a call for assistance made by any person requesting law enforcement services related to any of the following:
    - (1) "Domestic abuse," as defined in s. 813.12(1)(am), Wis. Stats.
    - (2) "Sexual assault," as described in ss. 940.225, 948.02, and 948.025, Wis. Stats.
    - (3) "Stalking," as described in s. 940.32, Wis. Stats.
    - (4) Enforcement of a restraining order as defined under Ch. 813, Wis. Stats.
    - (5) Any incident or behavior involving an individual at risk as defined in Wis. Stats. s. 813.123.
    - (6) Any matters involving a child in need of protective services as defined under Wis. Stats. s. 48.235(4).
  - (d) "Other responsible party" means any individual or entity other than the owner of the premises that is licensed or subject to license in the operation of a business upon the premises.
  - (e) "Person associated with a premises" means the premises owner, any operator, manager, resident, occupant, renter, tenant, guest, visitor, patron, or customer of the premises, or any employee or agent of any of these persons.
  - (f) "Premises" means a physical location identified by a single mailing address. For apartment units, a particular unit constitutes its own premises separate from the apartment complex as a whole.
  - (g) "RMC" means the Revised Municipal Code of the City of Stevens Point.
- (3) PROCEDURE.
- (a) Notices.
    - (i) Whenever the Chief of Police determines that the police department has responded to 3 or more nuisance activities that have occurred at a premises on separate days during a 60-day period or that the police department has responded to 2 or more nuisances of the types defined in subpar. (2)(c)(v) or subpars. (2)(c)(ix) – (2)(c)(xii) that have occurred at a premises within one year, the Chief of Police may notify the premises owner or other responsible party in writing that the premises is a nuisance. This notice shall contain:
      - (1) The street address or legal description sufficient for identification of the premises.
      - (2) A description of the nuisance activities that have occurred at the premises.
      - (3) A statement indicating that the cost of future enforcement may be assessed as a special charge against the premise, or referred for collection, and that the owner or other responsible

- party may be cited under subsection (6) of this section.
- (4) A statement that the premises owner or other responsible party shall within 15 days either respond to the chief of police with an acceptable, written course of action to abate the nuisance activities at the premises or file an appeal with the City Clerk pursuant to subpar. (5)(a) of this section.
  - (5) Examples of acceptable nuisance abatement measures.
- (ii) Whenever the Chief of Police determines that modification of an accepted written course of action is necessary to abate nuisance activities at the premises, the Chief of Police shall notify the premises owner or other responsible party in writing that the written course of action must be modified. This notice shall contain:
- (1) The street address or legal description sufficient for identification of the premises.
  - (2) A description of the nuisance activities that have occurred at the premises which require modification of the accepted written course of action.
  - (3) A copy of the previously-accepted written course of action.
  - (4) A statement indicating that the cost of future enforcement may be assessed as a special charge against the premises or referred for collection, and that the owner or other responsible party may be cited under subsection (6) of this section.
  - (5) A statement that the premises owner or other responsible party shall within 15 days respond to the Chief of Police with an acceptable modified written course of action to abate the nuisance activities at the premises.
- (b) A notice under par. (3)(a) shall be deemed to be properly delivered if sent either by first class mail to the premises owner's or other responsible party's last known address or if delivered in person to the premises owner or other responsible party. If the premises owner or other responsible party cannot be located, the notice shall be deemed to be properly delivered if a copy of the notice is left at the premises owner's or other responsible party's usual place of abode or regular business in the presence of some competent member of the family at least 14 years of age or a competent adult currently residing or conducting business there and who shall be informed of the

contents of the notice. If a current address cannot be located, it shall be deemed sufficient if a copy of the notice is sent by first class mail to the last known address of the owner or other responsible party as identified by the records of the Stevens Point Assessor's Department or, if no records of such address exist, to the City Attorney.

(c) Upon receipt of the nuisance premises notice under subpar. (3)(a)(i) or a demand for modification notice under subpar. (3)(a)(ii), the premises owner or other responsible party shall respond within 15 days to the Chief of Police with a written course of action or modified written course of action outlining the abatement actions which the premises owner or other responsible party will take in response to the notice. Upon review of the written course of action or modified written course of action, the Chief shall accept or reject the proposed course of action.

(i) If the proposed course of action is accepted, the Chief shall inform the owner or other responsible party of the same and permit the owner or other responsible party 45 days to implement the accepted course of action or modified course of action. If the premises owner or other responsible party has implemented the accepted written course of action within 45 days, no further action by the department may be taken except that if nuisance activity continues, the Chief may request the premises owner or other responsible party to modify the accepted written course of action by issuing a notice pursuant to subpar. 3(a)(ii).

(ii) If the premises owner or other responsible party fails to respond, proposes a course of action that is rejected by the Chief of Police, or fails to implement an accepted written course of action or accepted modified written course of action within 45 days, the Chief shall notify the premises owner or other responsible party that the cost of future enforcement may be assessed as a special charge against the premises or referred for collection, and that the owner or other responsible party may be cited under subsection (6) of this section.

(d) The Chief of Police may calculate the cost of police services and refer the cost to the Comptroller/Treasurer for subsequent nuisance activities occurring at the premises within one year of the date of a notice under par. (3)(a) of this section provided such nuisance activity occurs under one of the following circumstances:

(i) 15 days after notice was given pursuant to subpar. (3)(a) if the premises owner or other responsible party fails to

respond, or proposes a course of action that is rejected by the Chief of Police.

- (ii) 45 days after a proposed course of action was accepted by the Chief of Police and the premises owner or other responsible party failed to properly implement the accepted course of action.
- (iii) After the Common Council affirms the nuisance premises determination at a hearing under subpar. (5)(c) if an appeal is timely filed pursuant to subpar. (5)(a).

(e) The Chief of Police shall notify the premises owner or other responsible party of the decision to refer the cost of police services by copy of the Chief's cost referral letter to the Comptroller/Treasurer. Delivery of this notice shall be made as set forth in subpar. (3)(b). The cost referral letter shall contain:

- (i) The street address or legal description sufficient for identification of the premises.
- (ii) A statement that the Chief of Police has referred the cost of enforcement to the Comptroller/Treasurer, together with a
- (iii) concise description of the nuisance activities and the relevant sections of the code.
- (iv) A notice of the premises owner's or other responsible party's right to appeal pursuant to subpar. (5)(b).
- (v) A statement that each subsequent incident of nuisance activity may be deemed a separate violation.
- (vi) A statement that whenever a premises owner or other responsible party has been billed on 3 or more separate dates for the costs of enforcement within one year, he or she may be issued a citation of not less than \$1,000 nor more than \$5,000 after notification by the Chief of Police that the premises is a chronic nuisance due to the premises owner's or other responsible party's failure to abate the nuisance activities.

(4) COST RECOVERY.

(a) Upon receipt of a cost referral letter from the Chief of Police pursuant to pars. (3)(d) and (3)(e), the Comptroller/Treasurer shall



(b) charge to any premises owner or other responsible party found to be in violation of this section the costs of enforcement, including administrative costs, in full or in part. All costs so charged are a lien upon such premises and may be assessed and collected as a special charge. The Comptroller/Treasurer shall establish a reasonable charge for the costs of administration and enforcement of this section.

(5) APPEAL.

(a) Appeal of a determination that a premises is a nuisance under subpar. (3)(a)(i) shall be submitted to the City Clerk for referral to the Common Council within 15 days from the date of the notice of such determination.

(b) Appeal of a cost referral pursuant to subpar. (3)(d) shall be submitted to the City Clerk for referral to the Common Council within 30 days from the date of the cost referral letter.

(c) Appeals under subpars. (5)(a) and (5)(b) shall be adjudicated by the Common Council at a public hearing at its regular monthly meeting occurring in the month following the month in which the appeal is submitted to the City Clerk. At the hearing, the appellant and the City may be represented by an attorney and may present evidence, call and examine witnesses, and cross-examine witnesses of the other party. Such witnesses shall be sworn by the City Clerk. The Common Council shall, following the presentation of evidence and testimony by the appellant and the City, render a decision on the merits by majority vote of its members present. Attorneys for the appellant and the City may issue subpoenas to compel the attendance of a witness or the production of evidence. Such subpoenas must be in substantially the same form as provided in s. 805.07(4), Wis. Stats. and must be served in the manner provided in s. 805.07(5), Wis. Stats. The attorney shall, at the time of issuance, send a copy of the subpoena to the Council President.

(6) CHRONIC NUISANCE PREMISES.

(a) Whenever a premises owner or other responsible party has been notified that a nuisance exists at his or her premises and has been billed on 3 or more separate dates within a one-year time period for the costs of enforcement under subsection (4) of this section, the Chief of Police may designate the premises a chronic nuisance premises. Delivery of this notice shall be made as set forth in sub. (3)(b). The chronic nuisance premises letter shall contain:

- (i) The street address or legal description sufficient for identification of the premises.
    - (ii) A statement that the premises owner or other responsible party has been billed, on 3 or more separate dates, for the costs of enforcement within a one-year time period, along with a concise description of the nuisance activities, bills and relevant sections of the code.
    - (iii) A statement that any subsequent incident of nuisance activity shall subject the premises owner or other responsible party to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the nuisance activity.
    - (iv) A statement that each subsequent incident of nuisance activity may be deemed a separate violation.
  - (b) Any person failing to abate nuisance activities after receiving notice under subpar. a shall be subject to a forfeiture of not less than \$1,000 nor more than \$5,000 for failure to abate the nuisance activity.
- (7) EVICTION OR RETALIATION PROHIBITED.
- (a) It shall be unlawful for a landlord to terminate the lease agreement or periodic tenancy of any tenant or otherwise retaliate against any tenant because that tenant contacted a law enforcement agency regarding nuisance activities on the landlord's premises. It shall be presumed that any attempt to increase charges, reduce services, or to otherwise harass or retaliate against the tenant during the 12-month period following receipt of the complaint by the chief of police constitutes unlawful retaliation under this subsection. This presumption shall be rebutted by the preponderance of evidence that the actions taken by the landlord were based upon good cause. "Good cause" as used in this subsection means that a landlord must show good cause for his or her actions, other than one related to or caused by the operation of this section. A landlord's failure to renew a lease agreement or periodic tenancy upon expiration of such lease agreement or periodic tenancy shall not be deemed a violation of this subsection.
  - (b) Any person violating par. a shall be subject to a forfeiture of not less than \$100 nor more than \$2000 for each violation.
- (8) SUBSEQUENT NOTICE OF NUISANCE ACTIVITY. Nothing in this subsection shall prevent or prohibit the Chief of Police from issuing or reissuing a

notice under sub. (3)(a)(i) regarding subsequent nuisance activity at a premises, although such subsequent notice shall be in accordance with par. 9, if applicable.

GOOD FAITH COOPERATION. If the Chief of Police has accepted a written course of action and two (2) subsequent modified written courses of action pursuant to subpar. 3(c)(i) and the premises owner or other responsible party has implemented those courses of action within 45 days of their acceptance, no forfeiture under subpar. 6(b) may be issued and no cost recovery under par. 4(a) may be pursued for a period of 12 months following the acceptance of the second modified course of action. Following that 12 month period, the Chief of Police may address subsequent nuisance actions at the premises in question in accordance with the procedure described under par. 3, commencing with the initial notice required under subpar. 3(a)(i).

(9) [Repealed]

24.52 (1) DEFINITIONS. In this ordinance the following definitions are included and incorporated by reference as follows:

(c) "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).

(2) DETERMINATION.

(a) The weight of the substance for purposes of subsection (3)(b)(i) of this Section includes the tetrahydrocannabinols and the weight of any marijuana that contained the tetrahydrocannabinols.

(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, except as provided in section 961.41(3g)(intro.).

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

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

(ii) Is charged with possession of any amount of marijuana following a conviction for

possession of marijuana, in this state.

(4) PENALTY

- (a) Any person who violates any provision of this ordinance shall, upon conviction, be subject to a forfeiture of \$100.

24.53 SOCIAL HOST

24.53 (1) FINDINGS AND DELCARATION OF POLICY. The common council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons civilly responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The common council finds:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol related traffic collisions.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.
- (e) A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.
- (2) DEFINITIONS. For purposes of this chapter, the following terms have the following meanings:
- (a) "Control" means the power to direct, manage, oversee, supervise, organize, 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 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" is any individual under twenty-one (21) years of age.
- (3) PROHIBITED ACTS. 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. This subsection does not apply to legally protected religious observances.
- (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.
- (4) EXCEPTIONS.

- (a) This chapter does not apply to conduct solely between an underage person and his or her parents while the parent 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.
- (5) 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.

24.54: SEXTING PROHIBITED

(1) FINDINGS. The Common Council of Stevens Point has determined that the sharing of explicit images and related activities between minors represents a concern for the health, safety, welfare, peace and order to the citizens of the City of Stevens Point. The Council has further determined that prohibiting sharing of explicit images and related activities between minors will serve to deter such activities within the City.

(2) DEFINITIONS. For the purposes of this Subsection:

- (a) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a noticeably erect state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.
- (b) "Harmful to Minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:
  - a. Predominantly appeals to an indecent, shameful, or morbid interest;
  - b. Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;
  - c. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

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

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

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

(b) Possesses a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity, as defined above, and is harmful to minors, as defined above. A minor does not violate this paragraph if all of the following apply:

- i. The minor did not solicit the photograph or video.
- ii. The minor took reasonable steps to report the photograph or video to a school or law enforcement official.
- iii. The minor did not transmit or distribute the photograph or video to a third party other than a law enforcement official.

(c) Uses a computer, or any other device capable of electronic data transmission or distribution, to transmit or distribute to another minor any text message, correspondence or message of a sexual nature when it:

- i. Predominantly appeals to an indecent, shameful, or morbid interest;
- ii. Is blatantly offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors;
- iii. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

(d) Solicits the transmission or distribution of any text, correspondence, message, photograph or video from another minor that would itself be prohibited under this Subsection.

#### 24.55 PROSTITUTION PROHIBITED

- (1) The provisions of Wis. Stats. §§ 944.30 – 944.34 are hereby adopted in the City of Stevens Point. No person shall commit any offense prohibited under those statutory sections. Any person who violates any provision of this Section shall suffer a forfeiture of not more than \$1,500.00.

**24.56 (1) Statement of Purpose:**

- (a) The purpose of this ordinance is to protect the public health, safety and welfare of the property and persons in the city by prohibiting persons under eighteen (18) years of age from possessing and vapor and non-tobacco smoking products, and prohibiting the sale of vapor products to persons under eighteen (18) years of age.
- (b) Persons under age eighteen (18) are prohibited by law from purchasing or possessing cigarettes and other tobacco products, and retailers are prohibited from selling them to minors. New tobacco-less products, however, commonly referred to as "electronic cigarettes," "e-cigarettes," "e-cigars," "e-cigarillos," "e-pipes," "e-hookahs," or "electronic nicotine delivery systems," allow the user to simulate cigarette smoking. These products may be purchased by minors and are being marketed without age restrictions or health warnings and come in different flavors that appeal to young people.
- (c) E-cigarettes, and similar devices, are a relatively new nicotine delivery system. While devices vary in their appearance and specific method of operation, they have several basic elements in common. A solution of water, dissolved nicotine, and other ingredients (usually flavoring) is heated with a heating element (usually battery-powered). This vaporizes the nicotine solution, which passes into a mouthpiece and is inhaled in a manner similar to cigarette smoking. Often, glycerol or propylene glycol is added to the solution to give the appearance of smoke when the solution is vaporized. The concentration of nicotine contained in the solution can be customized by the retailer to the buyer's specifications, and many manufacturers make nicotine-free solutions.
- (d) The production and distribution of e-cigarettes is not currently regulated by federal or state authorities, and the U.S. Food and Drug Administration has not completed testing of these products. However, initial studies by the FDA have determined that e-cigarettes can increase nicotine addiction among young people and contain chemical ingredients known to be harmful, which may expose users and the public to potential health risks.
- (e) The use of e-cigarettes and similar devices has increased significantly in recent years.
- (f) Existing studies on electronic smoking devices' vapor emissions and cartridge contents have found a number of dangerous substances including:
- Chemicals known to cause cancer such as formaldehyde,



acetaldehyde, lead, nickel and chromium;

- PM 2.5, acrolein, tin, toluene, and aluminum, which are associated with a range of negative health effects such as skin, eye, and respiratory irritation, neurological effects, damage to reproductive systems, and even premature death from heart attacks and stroke.

- (g) Some cartridges used by electronic smoking devices can be refilled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine.
- (h) Clinical studies about the safety and efficacy of these products have not been submitted to the FDA for the over four hundred (400) brands of electronic smoking devices that are on the market and for this reason, consumers have no way of knowing whether electronic smoking devices are safe, what types of potentially harmful chemicals the products contain, and what dose of nicotine the products deliver.
- (i) Electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar in appearance to the exhaled smoke from cigarettes and other conventional tobacco products.
- (j) The use of electronic smoking devices in smoke-free locations threatens to undermine compliance with smoking regulations and reverses the progress that has been made in establishing a social norm that smoking is not permitted in public places and places of employment.
- (k) Non-tobacco smoking products, including but not limited to cigarettes made from industrial hemp, are also significant health hazards due to their intended use involving the inhalation of combustion products of plant material, which contains numerous known toxins and carcinogens.
- (l) It is the intent of the Common Council, in enacting the ordinance codified in this section, to provide for the public health, safety and welfare by facilitating uniform and consistent enforcement of smoke-free air laws; by reducing the potential for re-normalizing smoking in public places and places of employment; by reducing the potential for children to associate the use of electronic smoking devices and non-tobacco smoking products with a normative or healthy lifestyle; and by prohibiting the sale or distribution of electronic smoking devices and non-tobacco smoking products to minors.
- (m) Therefore, the Stevens Point Common Council determines that

- (n) prohibiting the sale, giving, or furnishing of vapor products and non-tobacco smoking products to minors and prohibiting the purchase, possession, or use of vapor products and non-tobacco smoking products by minors is in the City's best interest and will promote public health, safety, and welfare.

## **(2) Definitions**

- (a) "Minor" means an individual who is less than eighteen (18) years of age.
- (b) "Non-tobacco smoking product" means any product not containing tobacco which is designed to be ignited and the combustion products inhaled, including but not limited to industrial hemp cigarettes and loose industrial hemp packaged and marketed for smoking.
- (c) "Person who sells vapor products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products.
- (d) "Public place" means a public street, sidewalk, or park or any area open to the general public in a publically owned or operated building or premises, or in a public place of business or school.
- (e) "Use of a vapor product or non-tobacco smoking product" means to suck, inhale, ignite, or otherwise consume a vapor product or non-tobacco smoking product.
- (f) "Vapor product" means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device shall include any component part of such a product whether or not sold separately. Electronic delivery device shall not include any product that has been approved or otherwise certified by the United States Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.

## **(3) Prohibited Conduct**

- (a) Consistent with Wis. Stat. 254.92, a minor shall not do any of the following:
- I. Purchase or attempt to purchase a vapor product or non-tobacco smoking product.
  - II. Possess or attempt to possess a vapor product or non-

tobacco smoking product.

- III. Use a vapor product or non-tobacco smoking product in a public place.
  - IV. Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or non-tobacco smoking product.
- (b) No individual, regardless of age, who is enrolled in secondary school may possess or attempt to possess a tobacco product, non-tobacco smoking product, or vapor product while on school property.
- (c) An individual who violates subsection (3)(a) shall be subject to the penalties listed in the juvenile bond schedule.
- (d) An individual who violates subsection (3)(b) shall be subject to the following penalties:
- I. For the first violation, the person is responsible for a civil infraction punishable by a forfeiture of fifty dollars (\$50.00).
  - II. For a second and subsequent violation, the person is responsible for a civil infraction punishable by a forfeiture of seventy-five dollars (\$75.00).

#### **(4) Exception**

- (a) Subsection (3) does not apply to a minor participating in any of the following: (a) An undercover operation in which the minor purchases or receives a vapor product or non-tobacco smoking product under the direction of the minor's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action. (b) An undercover operation in which the minor purchases or receives a vapor product or non-tobacco smoking product under the direction of the state police or a local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the vapor product or non-tobacco smoking product by the minor was not under the direction of the state police or the local police agency and was not part of the undercover operation
- (b) Subsection (3) does not apply to the handling or transportation of a vapor product or non-tobacco smoking product by a minor under the terms of that minor's employment.

#### **(5) Furnishing to Minors**

Consistent with Wis. Stat. 134.66:

- (a) A person shall not sell, give or furnish any vapor product or non-tobacco smoking product to a minor, including, but not limited to, through a vending machine. A person who violates this subsection is subject to a fine of not more than one hundred dollars (\$100.00) for each violation.
- (b) Subsection (a) of this section does not apply to the handling or transportation of a tobacco product, non-tobacco smoking product, or vapor product by a minor under the terms of the minor's employment.
- (c) Before selling, offering for sale, giving, or furnishing a vapor product or non-tobacco smoking product to an individual, a person shall verify that the individual is at least eighteen (18) years of age by doing one (1) of the following: (a) Examining a government-issued photographic identification that establishes that the individual is at least eighteen (18) years of age; or (b) For sales made by the internet or other remote sales method, performing an age verification through an independent, third-party age verification service that compares information available from a commercially available database, or aggregate of databases, that are regularly used by government agencies and businesses for the purpose of age and identity verification to the personal information entered by the individual during the ordering process that establishes that the individual is eighteen (18) years of age or older.