

CHAPTER 20**PUBLIC SAFETY/PUBLIC ORDER****20.01 PUBLIC SAFETY/PUBLIC ORDER ORDINANCE**

(1) **GENERAL PROVISIONS.** No person shall commit the following offenses in the City of Cornell (herein noted as City of Cornell violations) and any amendments or revisions that are hereby adopted by reference in this chapter. The prosecution of such offenses under this ordinance shall be as provided in Section 66.051, (1993-1994) Wisconsin Statutes, and the below-noted sections, but the penalties for violation of these sections shall be limited to forfeitures as provided in Sections 20.01(22).

(A) **Juvenile State Laws Adopted.** Except as otherwise specifically provided in this chapter, the statutory provisions in Chapter 938, Wis. Stats., describing and defining dispositions and sanctions involving juveniles, are adopted and by reference made a part of this chapter 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 chapter. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation of juveniles in the State of Wisconsin.

(B) **Chapter 161, (1993-1994) Wisconsin Statutes**

(1) 161.41(3) Wis. Stats. Possession of Controlled Substances

(C) **Chapter 167, (1993-1994), Wisconsin Statutes:**

(1) 167.31: Safe use and transportation of firearms and bows

(D) **Chapter 941, (1993-1994), Wisconsin Statutes:**

(1) 941.20: Endangering safety by use of dangerous weapon

(2) 941.23: Carrying concealed weapon

(3) 941.235: Carrying firearm in public building

(4) 941.237: Carrying handgun where alcohol beverages may be sold or consumed

(E) Chapter 942, (1993-1994), Wisconsin Statutes:

- (1) 942.03: Giving false information for publication
- (2) 942.05: Opening Letters

(F) Chapter 943, (1993-1994), Wisconsin Statutes:

- (1) 943.01: Criminal damage to property
- (2) 943.017: Graffiti
- (3) 943.11: Entry into locked vehicles
- (4) 943.14: Criminal trespass to dwellings
- (5) 943.15: Entry onto a construction site or into a locked building, dwelling, or room
- (5.5) 943.20: Theft
- (6) 943.21: Fraud on hotel or restaurant keeper
- (7) 943.23: Operating a vehicle without owner's consent
- (8) 943.24: Issue of worthless check
- (9) 943.30: Threats to injure or accuse of crime
- (10) 943.31: Threats to communicate derogatory information
- (11) 943.35: Receiving property from children
- (12) 943.37: Alteration of property identification marks
- (13) 943.50: Shoplifting
- (14) 943.61: Theft of library material

(G) Chapter 945, (1993-1994), Wisconsin Statutes

- (1) 945.02: Gambling/Commercial gambling
- (2) 945.05: Dealing in gambling devices
- (3) 945.07: Gambling by participants in contests
- (4) 945.08: Bribery of participant in contest
- (5) 945.09: Commercial printing
- (6) 945.12: Endless sales chains

(H) Chapter 946, (1993-1994), Wisconsin Statutes

- (1) 946.05: Flag desecration
- (2) 946.06: Improper use of the Flag
- (3) 946.10: Bribery of public officers and employees
- (4) 946.11: Special privileges from public utilities
- (5) 946.12: Misconduct in public office

- (6) 946.13: Private interest in public contract
- (7) 946.15: Public construction contracts at less than full rate
- (8) 946.17: Corrupt means to influence legislation, disclosure of interest
- (9) 946.31: Perjury
- (10) 946.32: False swearing
- (11) 946.40: Refusing to aid an officer
- (12) 946.41: Resisting or obstructing an officer
- (13) 946.65: Obstructing justice
- (14) 946.68: Simulating legal process
- (15) 946.69: Falsely assuming to act as public officer or employee
- (16) 946.70: Impersonating Peace Officers
- (17) 946.72: Tampering with public records and notices

(I) Chapter 947, (1993-1994), Wisconsin Statutes

- (1) 947.01: Disorderly conduct
- (2) 947.012: Unlawful use of telephone
- (3) 947.013: Harassment
- (4) 947.015: Bomb scares
- (5) 947.02: Vagrancy
- (6) 947.04: Drinking in common carriers
- (7) 947.047: Metal or glass debris in or on the shore of any body of water
- (8) 947.06: Unlawful assemblies and their suppression
- (9) 947.16: Contributing to truancy

(J) Chapter 948, (1993-1994), Wisconsin Statutes

- (1) 948.11: Exposing a child to harmful material
- (2) 948.21: Neglecting a child
- (3) 948.31: Interference with custody by parent or other
- (4) 948.60: Possession of a dangerous weapon by a child
- (5) 948.63: Receiving property from a child
- (6) 948.61: Possessing dangerous weapons other than firearms on school premises
- (7) 948.605: Gun free school zones

(2) **DISORDERLY CONDUCT PROHIBITED.** No person shall within the City of Cornell:

(A) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonable, loud, or other disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.

(B) Intentionally cause, provoke, or engage in any fight, brawl, riot or noisy altercation.

(C) No person shall disturb a public meeting or loiter about a place of public assemblage.

(3) **INTOXICATION DRUNKENNESS**

(A) It shall be unlawful for any person to be so intoxicated that he is a nuisance to others, or is unable to care for his own safety in a public place in the City of Cornell. Any person who violates this ordinance shall upon conviction thereof, be subject to a penalty of \$25.00.

(B) In accordance with Section 51.45, Wis. Stats., a person who appears to be incapacitated by alcohol shall be placed in protective custody pursuant to Sec. 51.45(11) and (12).

(4) **ASSAULT AND BATTERY**

(A) No person shall commit an assault and battery upon another.

(5) **MOLESTING BIRDS AND SQUIRRELS**

(A) No person shall injure or attempt to injure any harmless birds, their nests or their eggs or any squirrels within the City.

(6) **REGULATION OF TRAPPING**

(A) In the interest of public health and safety, it shall be unlawful for any person, in or on land or right-of-way owned by the City to set, place or tend any trap for the purpose of trapping, killing, catching, wounding or molesting any animal except as authorized by City officials or their designees by use of a live trap only. Live traps shall be defined as those traps which capture and hold in an animal in an alive and unharmed condition.

(B) In all other areas of the City trapping is permitted only with the permission of the land owner.

(7) REGULATION OF WEAPONS OTHER THAN FIREARMS, INCLUDING BOWS AND ARROWS, BB GUNS, AIR GUNS AND WEAPONS OTHER THAN FIREARMS.

(A) **Discharging and Carrying Weapons Prohibited.** No person except a duly authorized peace officer in the course of his or her duty shall discharge or use any sling shot, air gun, BB gun, bow and arrow, or any other weapon, within the City of Cornell, except as permitted by Subsection 20.01(12), or have any sling shot, air gun, BB gun, bow and arrow, or any other weapon in his or her possession or under his or her control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container except when written or oral permission to discharge such weapons is obtained from the Common Council or Police Chief for varmint control. Any person who violates a provision of this section shall upon conviction thereof forfeit not less than \$10.00 nor more than \$100.00 together with the costs of prosecution, and when in default thereof shall be imprisoned in the County Jail not to exceed 30 days. For purposes of this Ordinance, the term weapon shall not include firearms as defined in Section 167.31(1)(c), Wisconsin Statutes.

(B) **Exceptions for Archery Practice.** The above prohibition against discharge of bow and arrow shall not apply to the City owned archery range and to archery practice areas, where written permission to discharge such bow and arrow is obtained from the Police Chief, who shall make the determination based on public safety concerns.

(C) This section shall not apply to a law enforcement investigator, watchman, guard, security or military personnel who are permitted by law to carry or bear weapons when acting in the life of duty.

(D) This section shall not apply to the carrying or bearing of a weapon in a bona fide safety or training course or practice firing held at a location approved by the City or other governmental agency.

(8) REGULATION OF FIREARMS.

(A) **Discharging and carrying firearms restricted.** No person except a duly authorized peace officer in the course of his or her duty shall discharge any firearm within the City of Cornell, except when written or oral permission to discharge such firearm is obtained from the Common Council or Police Chief for

varmint control. Any person who violates a provision of this section shall upon conviction thereof forfeit not less than \$10.00 nor more than \$500.00 together with the costs of prosecution and when in default thereof shall be imprisoned in the County Jail not to exceed 30 days.

(B) Possession of firearms - Public Buildings.

(1) "Firearm" has the meaning in section 13.01(7) of these Ordinances given in Section 167.31(1)(c) Wisconsin Statutes.

(2) "Law enforcement officer" means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the law or ordinances he or she is employed to enforce.

(3) No invitee, except a law enforcement officer acting in the scope of his or her employment, shall have in his or her possession, carry or bear any firearm within any publicly owned building within the City.

(4) This section shall not be construed to prohibit the sale, purchase, trade or repair of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal laws, nor to hinder a prospective customer from attempting to buy, sell, trade or have repaired firearms to, from or by a retailer.

(5) This section shall not apply to a law enforcement investigator, watchman, guard, security or military personnel who are permitted by law to carry or bear a firearm, when acting in the line of duty.

(6) This section shall not apply to the carrying or bearing of a firearm in a bona fide firearm safety or training course or practice firing held at a location approved by the City or other governmental agency. Note: For other regulations on firearms, see Section 20.01 of these Ordinances.

(9) ABANDONED OR UNATTENDED REFRIGERATORS, ETC. No person shall leave outside any building, dwelling or at a place accessible to children, any unattended or discarded ice box, refrigerator or other container which has an airtight door which may not be opened from the inside or may in any way trap a person or child. (Ref. Section 167.25, Wis Stats.)

(10) UNGUARDED OPENINGS. The owner or occupant of any lot or parcel of land within the City shall not leave unguarded or unprotected by barriers and flares any open cistern, well, vault door, excavation or other opening on such lot or parcel.

(11) OBSTRUCTION OF AISLES, FIRE ESCAPES, ETC. No person shall obstruct an aisle, fire escape, entrance or exit of a public building or building used for the assemblage of more than 10 persons.

(12) HUNTING RESTRICTED FOR PUBLIC HEALTH AND SAFETY REASONS.

(A) The Common Council of the City of Cornell recognizes the mandate of Section 29.038, Wisconsin Statutes which prohibits regulations restricting hunting, except as such regulations have an incidental effect on hunting and for which the primary purpose is to further public health or safety. In accordance with such mandate, the Common Council, having received the advice of the City of Cornell Planning Commission, and in the exercise of its police power, hereby determines that the following regulations are adopted with the primary purpose to protect public safety.

(B) Except as provided in Section 20.01(7)(B), no person may hunt with, or otherwise discharge any bow and arrow, including a crossbow, in any portion of the City of Cornell, designated as the Restricted area:

(1) Bow hunting is permitted in all portions of the City of Cornell outside of the following designated areas. Bow hunting shall include hunting with a crossbow when permitted by State Game Regulations, including Chapter 29 Wis. Stats. and Chapter NR 10 Wisconsin Administrative Code, as amended from time to time.

Restricted Area.

a. All that part of the City of Cornell, within the following boundaries:

Commencing at the intersection of the North boundary of Highway 64 with the West boundary of Park Road, which is the **Point of Beginning**, thence Northerly along the West boundary of Park Road to a point where the West boundary of Park Road intersects with the North Boundary of Osborne Street (Extended to Park Road), thence East along the North boundary of Osborne Street-extended and the North boundary of Osborne Street to the intersection of the North boundary of Osborne Street with the West boundary of 2nd Street, thence North along the West boundary of 2nd Street to the

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intersection of the West boundary of 2nd Street with the North boundary of Moen Street, thence Easterly along the North boundary of Moen Street and Moen Street-extended, and West Squire Drive to the East boundary of North Eighth Street, thence South along the East boundary of North Eighth Street to the North boundary of Highway 64, thence Southeasterly along the North boundary of Highway 64 to a point due North of the intersection of the South boundary of Highway 64 and the South boundary of South Street, thence South to the South boundary of South Street, thence Westerly along the South boundary of South Street, to the intersection of the South boundary of South Street with the East boundary of South Eighth Street, thence South along the East boundary of South Eighth Street to the intersection of the East boundary of South Eighth Street with the South boundary of Polzin Street then, West over the South boundary of Polzin Street and, Polzin Street- extended to the West boundary of Highway 27, thence Northeasterly along the West boundary of Highway 27, to the intersection of the West boundary of Highway 27, with the South boundary of Bates Street, thence West along the South boundary of Bates Street to the West boundary of Second Street, thence North along the West boundary of Second Street to the intersection of the West boundary of Second Street with the South boundary of State Highway 64, thence West along the South boundary of State Highway 64, to a point due South of the **Point of Beginning**, thence North to the **Point of Beginning, excepting therefrom the following:** 1) Lots 1 through 5 of Block 2, Park Addition to the City of Cornell; 2) Lots 20 through 23 of Block 2, Park Addition to the City of Cornell; and 3) Lot 1 of Builders Addition to the City of Cornell, except the South 50' thereof. The map showing the restricted area shall be set forth as Appendix Z in the Code of Ordinances.

b. The following City owned lands:

- 1.** Water tower parcel on Water Tower Road.
- 2.** All City owned parks and playgrounds, including the Mill Yard Park.
- 3.** The City owned Archery Range/Well Area (Gov't Lot 8, Section 18).

c. All lands owned or occupied by the Cornell School District.

d. All lands owned by the State of Wisconsin.

(2) Bow hunting, including crossbow hunting, to the extent

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permitted by State Game Regulations is permitted in non-restricted areas only on the following conditions, which are designed to promote public health and safety.

a. Anyone hunting on lands of another person, corporation or public entity must obtain written permission from the landowner and carry such permission on their person while hunting, and upon request, display it to any Law Enforcement Officer, Game Law Enforcement Officer, or Land Owner.

b. All persons bow hunting must observe all State Game Laws, including Section 167.31, Wisconsin Statutes, NR 10 Wisconsin Administrative Code; and Chapter 29, Wisconsin Statutes, including any amendments thereto. The definitions contained in such regulations, including the definitions found in NR 10.01, Wisconsin Administrative Code, are adopted as definitions for this ordinance.

c. No one may discharge a bow and arrow, including a crossbow within 50 yards of a building devoted to human occupancy, while on lands of another without permission of the owner or occupant.

(C) Nothing contained herein shall be interpreted to allow discharge of firearms otherwise prohibited by this code or hunting with the use of firearms, such being specifically prohibited as imposing an unreasonable danger to the public at any location within the limits of the City of Cornell.

(13) LOUD AND UNNECESSARY NOISE PROHIBITED. No person shall make or cause to be made loud, disturbing or unnecessary sounds or noises such as tend to annoy or disturb another in or about any public street, alley, or park of any private residence. (See Chapter 22)

(14) OBEDIENCE TO OFFICERS. No person shall, without reasonable excuse or justification, resist or in any other way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority.

(15) BEER OR LIQUOR CONSUMPTION ON STREETS PROHIBITED

(A) No person shall possess open containers of or consume fermented malt beverages or intoxicating liquor as defined by Chapter 125, Wisconsin Statutes which definitions are incorporated herein by reference, upon any street, sidewalk, alley, boulevard, parking lot or other public way within the City, except at such times and in such places as may be specifically exempted temporarily from the

provisions of this Section by the Common Council in connection with public celebrations or other activities. Also specifically exempted are premises within the Mill Yard Park.

(B) It is the intent of the City of Cornell that Section 125.07(4), Wisconsin Statutes, as it may be amended from time to time, are hereby adopted and incorporated in the ordinances of the City of Cornell.

(C) The words "fermented malt beverages" and "intoxicating liquor" are to be defined the same as they are defined in the Wisconsin Statutes. For purposes of this section, "legal drinking age" shall be defined as the legal drinking age established by the State of Wisconsin as the same may be amended from time to time.

(D) Violating this subsection shall be subject to a forfeiture and such other penalties, (exclusive of any statutory penalty of imprisonment), as provided in Section 125.07(4), Wis. Stats., as it may be amended from time to time, except that disposition at proceedings against a person underage shall be as provided by Chapter 938, Wisconsin Statutes, as amended from time-to-time.

(16) **IMPERSONATING POLICE OFFICERS.** No person shall impersonate a Chief of Police or peace officer within the City.

(17) **RESPONSIBILITY FOR POSSESSION OR CONSUMPTION OF ALCOHOLIC BEVERAGES BY UNDERAGE PERSONS - UNDERAGE AND INTOXICATED PERSONS - PRESENCE ON LICENSED PREMISES - POSSESSION.**

(A) It is the intent of the City of Cornell that Section 125.07, Wis. Stats., as may be amended from time to time, is hereby adopted and incorporated in the ordinances of the City of Cornell.

(B) The words "fermented malt beverages" and "intoxicating liquor" are to be defined the same as they are defined in the Wisconsin Statutes. For purposes of this section, "legal drinking age" shall be defined as the legal drinking age established by the State of Wisconsin as the same may be amended from time to time.

(C) Violating this subsection shall be subject to a forfeiture and such other penalties, (exclusive of any statutory penalty of imprisonment), as are provided in Section 125.07(4), Wis. Stats., as it may be amended from time to time.

(18) OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY**(A) Gambling, Lotteries, Fraudulent Devices and Practices**

Prohibited. All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the City. Any peace officer or policeman of the City is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the City and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

(B) Disorderly Houses Prohibited. No person shall keep a disorderly house or house of prostitution within the City.

(C) Loitering

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

(2) Obstruction of Traffic by Loitering. No person shall loiter upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the City in such a manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, alleys, sidewalks, street crossings, or bridges or other public places by persons passing along and over the same. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after a request to do so by a police officer.

(3) Obstruction of Entryways by Loitering. No person shall loiter upon the public streets, private driveways or sidewalks or in adjacent

doorways or entrances so as to obstruct the free entry of persons to the adjacent property, driveways or other entrances to such property. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a police officer.

(4) **Loitering in Places of Public Assembly or Use.** No person shall by loitering interfere with the free use of any place of public assembly, or public use or other using such place of assemble. It shall be an offence under this subsection for a person to refuse to discontinue such loitering after a request to do so by a police officer or by the person in charge of the place of public assembly.

(5) **Loitering on Private Premises without Invitation.** No person shall loiter on private premises without invitation from the owner or occupant. It shall be an offense under this subsection for a person to refuse to discontinue such loitering after being requested to do so by a police officer or by owner or occupant.

(6) **Loiter** means to linger, stand around, move slowly about, remain or spend time idly in a public building, public land, in a public facility or any public place.

(D) **Unlawful Trespass**

(1) It shall be a violation of this section for any person to enter any property of another, or to enter the dwelling of another, under circumstances tending to create or provoke a breach of the peace, without the express or implied consent of an owner or occupant lawfully authorized to consent to the entry of such property or dwelling.

(2) It shall be a violation of this section for any person to remain on any property of another or to remain in any building or dwelling of another, after having been notified by the owner or occupant not to remain on such property. A person has received notice from the owner or the occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted.

For purposes of this section, a property is "posted" if

- (a) There is a sign at least 11 inches square placed in at least two
(2) conspicuous places on the property. Such 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 or by the word "occupant" if the person giving notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as provided in this section were erected or in existence upon the property prior to a violation of this section shall be prima facie proof that the property was posted as provided in this section; OR

(b) An owner or occupant erects markings at least one foot long, including in a contrasting color the phrase "private land" or "private property" and the name of the owner or occupant, and such markings are made in at least 2 conspicuous places on the property.

(3) It shall be unlawful for any person to permit any animal belonging to that person, or under that person's control, to enter upon the property belonging to another person without the permission of the lawful owner or occupant.

(4) Penalty – Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than \$10 nor more than \$200 for each such offense plus court and prosecution costs

(19) INDECENT CONDUCT AND LANGUAGE PROHIBITED. No person shall use an indecent, vile, profane or obscene language or conduct himself or herself in any indecent, lewd, lascivious or obscene manner within the City. It shall be a violation of this subsection for any person to sell, give away or distribute within the City any obscene show or exhibition.

(20) CURFEW

(A) No child 16 years of age or under shall loiter, idle or remain, and no parent or guardian shall knowingly permit his child or ward of such age to loiter, idle, or remain in or upon any of the streets, alleys or public places in the City between the hours of 10:00 p.m. and 6:00 a.m. unless such child is accompanied by a parent, guardian, a person of lawful age having legal custody of such child. This subsection shall not prohibit such child from performing an errand of duty if directed by his parent or guardian or of urgent necessity or from pursuing the duties of

his employment in an expeditious and orderly manner or from going directly to or from places of business, school related events, amusement or private homes. This subsection shall not prohibit such child from riding in an automobile on City streets if engaged in the activities in the aforementioned sentence.

(B) Arrest. Any person who shall violate any of the provisions of Sec. 13.01(20)(a) shall be subject to arrest without warrant by a police officer of the City and upon his or her arrest shall be delivered by such officer to his or her parents or guardian. Upon conviction he or she shall forfeit not less than \$1.00 nor more than \$10.00 and the costs of prosecution. The provisions of Chapter 930 of the Juvenile Justice Code as amended from time-to-time shall control taking a juvenile into custody and release or delivery from custody.

(21) OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY;
DESTRUCTION OF PROPERTY PROHIBITED. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property belonging to the City or its departments or to any private person without the consent of the owner or proper authority. Any person convicted of a violation of this section shall also be required to make full restitution for the amount of any damages caused to such property.

(22) PENALTIES. Any person who shall violate a provision of this ordinance shall upon conviction thereof be subject to a penalty as provided herein:

(A) For violation of ordinances for which a statutory counterpart exists, the range of forfeitures (exclusive of penalties of imprisonment) shall be the range prescribed by Wisconsin Statute. The deposit for such violations shall be as provided in the Uniform Bond Schedule as revised from time-to-time.

(B) Any person who shall violate any provision of this chapter, except ordinances, which a statutory counterpart exists, except which have a specific penalty set forth therein, for which the penalties set forth therein apply, shall upon conviction thereof be subject to a penalty which shall be as follows:

(1) First Offense - Penalty. Any person who shall violate any provision of this code subject to a penalty shall, upon conviction thereof, forfeit not less than \$10.00 nor more than \$200.00 together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding 90 days.

(2) **Second Offense** - Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this code who shall previously have been convicted of a violation of the same ordinance shall upon conviction thereof, forfeit not less than \$20.00 nor more than \$200.00 for each such offense, together with the costs of prosecution and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs of prosecution are paid, but not to exceed 6 months.

(23) CITY PARK HOURS AND PERMITS.

(A) All parks shall be closed to public use between the hours of 12:00 p.m. and 6:00 a.m. each day of the year, except Mill Yard Park. Mill Yard Park Hours will be set by Resolution, as Appendix U.

(B) The time referred to in this section shall be the official time used in the State of Wisconsin at the time of the alleged violation.

(C) Any person violating this chapter shall forfeit not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) and the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not exceeding 30 days.

(D) **Permits For Night Use.** The Common Council may if it finds that no vandalism or loud or disorderly conduct is likely to occur, grant to any group permission to use a specified park or beach for a specified night or nights. As a condition to granting such permission, the Common Council may require the posting of a reasonable bond, or the presence of a police officer or deputy sheriff, to be paid by the group seeking the permit. The permit may be revoked at any time by the Common Council authorized to oversee or inspect the permitted use.

(24) DISPOSITION OF ABANDONED AND UNCLAIMED PERSONAL PROPERTY

(A) It shall be the duty of the Chief of Police to dispose of all personal property which has been abandoned or which remains unclaimed for sixty (60) days after having come into the possession of the Police Department. Such disposal shall be by means of a public sale or auction, whose dates and regularity shall be determined by the Chief of Police or his designee.

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The Chief of Police shall keep accurate and up-to-date records which inventory the property in the Police Department's possession, record the owners or supposed owners, if known, the person from whom the property was taken or received, the date and place of acquisition by the Police Department, and shall describe the disposition of the property returned to its rightful owner, or disposed of in other manners prescribed by this section. Such inventory shall be kept as a public record for a period of not less than two (2) years from the date of disposal of the property.

(C) The property shall be sold to the highest cash bidder at a public sale to be held at such place as the Chief of Police may designate. Notice of such public sale shall be given by publication at least once in the official newspaper of the City of Cornell and by posting notice of said sale on official City bulletin boards. The notice shall state the date, time and place of a sale, a description of the property and a statement that if the property is not claimed by the lawful owner prior to the sale, it will be sold to the highest cash bidder.

(D) Any person claiming property shall produce proof of ownership and pay a proportionate share of the cost of publishing the notice of public sale.

(E) Property remaining unsold may be retained for another public sale, disposed of by private sale for the best price obtainable or may be summarily disposed of.

(F) **Disposition of Proceeds.** After deducting the necessary expenses of keeping the property and conducting the sale, all receipts from the sales shall be paid into the City Treasury.

(G) Except upon an Order of a Court or as otherwise provided, stolen or wrongfully taken property, or property which may be required in any civil or criminal proceedings shall not be delivered to any claimant or sold until all prosecutions or proceedings involving such property shall have been finally disposed of, including appeals and until the time has expired within which appeals may be lawfully taken.

(H) All money deposited with the Police Department which remains unclaimed, or whose owner cannot be determined, shall be returned to the valid finder, if there is one, or paid into the City Treasury after sixty (60) days of the date the department takes possession of such money, unless the money falls with the provisions of Subsection (C) above. The department may subtract a

reasonable fee from the money for administrative costs and handling before returning the remainder to the finder. Such fees may be waived by the Police Chief or his designee.

(l) The Police Department may safely dispose of any abandoned or unclaimed flammable, explosive or incendiary substances, materials, or devices posing a danger to life or property in their storage, transportation or use, immediately after taking possession of the substances, materials, or devices without a public auction. Such disposal shall be carried out by a qualified member of the Police Department, the Fire Department, or any other agency designated as most appropriate under the circumstances. In each occasion where such disposal is necessary, the Chief of Police or his designee shall determine the appropriate method of disposal. However, if any of the above substances appears to have been, or is reported stolen, the Chief of Police or his designee shall attempt to return such substance to its rightful owner, provided that immediate disposal is not required by the public health and safety.

(25) REGULATION OF SMOKING

(A) Definitions. In this Section:

(1) **Educational facility** means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board, and the grounds or campus upon which a school is located.

(2) **Inpatient health care facility** has the meaning provided under Sec. 140.86(1), Wis. Stats., except that it does include community-based residential facilities as defined under Sec. 50.01(1), Wis. Stats.

(3) **Office** means any area that serves as a place of work at which the principal activities consist of professional, clerical or administrative services.

(4) **Person in charge** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within a place where smoking is regulated under this Section, regardless of the person's status as owner or lessee.

(5) **Public conveyance** means mass transit vehicles as defined by Sec. 340.01(28q), Wis. Stats., and school buses as defined by Sec.

340.01(56), Wis. Stats.

(6) **Restaurant** means an establishment defined in Sec. 50.50(3), Wis. Stats., with a seating capacity of more than thirty (30) persons.

(7) **Retail establishment** means any store or shop in which retail sales is the principal business conducted, except a tavern operating under a "Class B" liquor license or Class "B" fermented malt beverage license, and except bowling alleys.

(8) **Smoking** means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

(B) Regulation of Smoking and Other Use of Tobacco Products

(1) Except as provided in Subsection (C), no person may smoke or otherwise use tobacco products in the following place:

- a. Public conveyances.
- b. Educational facilities.
- c. Inpatient health care facilities.
- d. Indoor movie theaters.
- e. Offices.
- f. Passenger elevators.
- g. Restaurants.
- h. Retail establishments.
- i. Public waiting rooms.
- j. Any enclosed, indoor area of a state, county or city building.

(2) Except as provided in subsection (B)(3), the prohibition in Subsection (B)(1) above applies only to enclosed, indoor areas.

(3) No person shall smoke or otherwise use tobacco products either indoors or outdoors at any educational facility which is owned by, rented by, or under the control of the school board, including the grounds or campus upon which the school is located together with those portions of the street right-of-way (including street pavement, curb, parkway and sidewalk) of all streets abutting said grounds or campus; provided, however, that the school board may allow smoking or other use of tobacco products on premises owned by the school district and rented to another person for noneducational purposes.

(C) **Exceptions.** The regulation of smoking in Subsection (B) does not apply to the following places:

- (1) Areas designated smoking areas under Subsection (D).
- (2) Entire rooms or halls used for private functions, if the arrangements for the function are under the control of the sponsor of the function.
- (3) Restaurants holding a "Class B" intoxicating liquor or Class "B" fermented malt beverage license if the sale of intoxicating liquors or fermented malt beverages or both accounts for more than fifty percent (50%) of the restaurant's receipts.
- (4) Offices that are privately owned and occupied.
- (5) Any area of a facility used principally to manufacture or assemble goods, products or merchandise for sale.
- (6) Prisons, secured correctional facilities, secure detention facilities, jails and lockup facilities.

(D) **Designation of Smoking Areas**

- (1) A person in charge of his or her agent may designate smoking areas in the places where smoking is regulated under Subsection (B) unless a Fire Inspector/Fire Marshal law, ordinance or resolution prohibits smoking. Entire rooms and buildings may be designated smoking areas.
- (2) If an entire room is designated a smoking area, the person in charge or his or her agent shall post notice of the designation conspicuously on or near all entrances to the room normally used by the public. If an entire building is designated a smoking area, notice of the designation shall be posted on or near all entrances to the building normally used by the public, but posting notice of the designation on or near entrances to rooms within the building is not required.
- (3) The person in charge or his or her agent shall utilize, if possible, existing physical barriers and ventilation systems when designating smoking areas. This paragraph requires no new construction of physical barriers or ventilation systems in any building.

(4) This Section requires the posting of signs only in areas where smoking is permitted.

(E) **Responsibilities.** The person in charge or his or her agent shall:

- (1) Post signs identifying designated smoking areas; and
- (2) Arrange seating to accommodate non-smokers if smoking areas are adjacent to non-smoking areas.

(F) **Penalties**

(1) Any person who willfully violates Subsection (B) after being advised by an employee of the facility that smoking in the area is prohibited or any person in charge or his or her agent who willfully fails to comply with Subsection (E) shall be subject to the penalties as set forth in Section 1.05.

(2) Sections 101.02(13)(a) and 939.61(1), Wis. Stats., do not apply to this Section.

(3) A violation of this Section does not constitute negligence as a matter of law.

(G) **Injunction.** State or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this Section.

State Law Reference: Sec. 101.123, Wis. Stats.

(26) SALE OF CIGARETTES AND TOBACCO PRODUCTS TO CHILDREN RESTRICTED.

(A) **State Statutes Adopted.** The provisions of Section 938.983 of the Wisconsin Statutes and Section 134.66 of the Wisconsin Statutes as amended from time-to-time, defining and regulating the sale, procurement, dispensing, and transfer of cigarettes and tobacco products and regulating location of vending machines, including provisions relating to penalty to be imposed or the punishment for violation of such statutes, but exclusive of any statutory penalty of imprisonment (no penalty of imprisonment may be imposed for ordinance

violations; forfeiture only may be imposed) are adopted and made a part of this section by reference. A violation for such provisions shall constitute a violation of this section.

(27) OPEN BURNING USE OF INCINERATORS AND USE OF BURN BARRELS PROHIBITED

(A) Policy It is the policy of the City of Cornell to not permit open burning of garbage and debris in the City of Cornell.

It is the policy of the City of Cornell to prohibit the use of incinerators or burn barrels in the City of Cornell.

(B) Definitions

(1) "Open burning" shall mean herein the burning of debris or garbage on the ground or in an open area without any means to contain the fire from spreading.

(2) "Use of burn barrels or incinerators" means burning of debris or garbage in barrels or other like open incinerators, including firebox incinerators.

(3) "Potential hazard" shall mean herein a dangerous situation affecting the citizens of the City during the igniting, burning, blowing around of, or after the burning of garbage or debris.

(C) Unlawful practices

(1) It shall be unlawful for any person or entity to do open burning of garbage or debris in the City of Cornell, except that leaves, brush, scrap lumber or similar material may be burned by persons or entities on their own premises with a Fire Safety Permit. Such permit shall be issued by the City of Cornell, Chief of the Cornell Area Fire Department, or their designee, with such permit to include any restrictions set forth by the Fire Chief and/or Police Chief and/or Common Council to ensure public safety. Such materials must be placed in a safe area and at least 30 feet from any buildings.

(2) It shall be unlawful for any person or entity to use burn barrels or incinerators for the burning of debris or garbage within the City of Cornell, except that:

(a) Burning in outdoor fireplaces of wood, charcoal and

other fossil fuels for warming or cooking is not prohibited.

(b) Burning in wood stoves or furnaces of wood, wood pallets, wood chips or other fossil fuels for fuel for home heating or heating of buildings is not prohibited.

(D) **Responsibility** Any person allowing a fire to escape from their control shall be responsible for all suppression costs. Such costs shall be payable within 60 days after receipt of an invoice for such suppression costs from the Cornell Area Fire Department. Upon failure to pay such costs, the City of Cornell or City of Cornell Area Fire Department may take action for collection of such costs at any time within two (2) years from date of occurrence.

(E) **Ban of all burning, including open burning, burning in incinerators, or burning of brush, wood trash, and waste.**

(1) During emergency fire days as established by the Wisconsin Department of Natural Resources, no burning shall be permitted within the City of Cornell.

(2) The Common Council of the City of Cornell may declare certain areas of the City from time-to-time as being areas where burning is potentially hazardous to public safety. During such times and for such periods, no burning shall be permitted nor Fire Safety Permits issued.

(F) **Procedures and Remedies**

(1) Persons or entities violating subsection (C)(1) of this ordinance are subject to a forfeiture of not less than \$10.00, nor more than \$100.00 for the first offense; and not less than \$25.00 nor more than \$200.00 for the second and subsequent offenses.

(2) Persons or entities violating subsection (C)(2) (burn barrels or incinerators) of this ordinance shall be proceeded against as follows:

a. **First Notice** - A written notice from the City Administrator either sent by Certified Return Receipt mail or delivered in person by the Police Chief or his designee. This notice shall give 10 days to correct the burning violation.

b. **Second and Third Notices** - If not corrected by notice

in (a) above, after five days the fine schedule for second and third notice shall apply. Second and third notice shall come at 5-day intervals after the first notice time period has lapsed.

c. Fourth Notice - If the first three notices and fines do not meet with successful stoppage of open burning in the designated areas, the matter shall be referred to the City Attorney by the City Administrator, or designee, or the Police Chief or designee and litigation in Circuit Court shall ensue.

d. Penalties (Notices below referred to are those cited in this ordinance)

(a) First Notice	No fine
(b) Second Notice	\$25.00 fine imposed
(c) Third Notice	\$100.00 fine imposed
(d) Fourth Notice	Subpoena or summons to appear in Circuit Court for litigation

(G) Severability of Invalid Provisions In case any one or more of the sections, subsections, clauses, or provisions of this ordinance, or the application of such sections, subsections, clauses or provisions to any situations, circumstances or person shall for any reason be held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect any other sections or provisions or sections of this ordinance or the application of such sections, subsections, clauses, or provisions to any other situation, circumstance, or person, and it is intended that this ordinance shall be construed and applied as if such section or provision so held unconstitutional or invalid has not been included in this ordinance.

(28) PROCEDURE FOR VIOLATIONS OF ORDINANCES BY JUVENILES

(A) Procedure. The procedure for civil law and ordinance proceedings against juveniles shall be that set forth in Chapter 938 and other applicable Wisconsin Statutes, as amended from time-to-time. Citation forms under Sec. 66.119 or Sec. 800.02 Wis. Stats. if the City has a municipal court, may be used. Whenever the juvenile justice code requires a different procedure than that set forth in these ordinances for adult violations of ordinances, the juvenile justice code shall control.

(B) Jurisdiction. Jurisdiction over traffic and boating civil law and ordinance violations for juveniles shall be as set forth in Chapter 938 Wis. Stats.,

as amended from time-to-time.

(C) **Taking A Juvenile Into Custody And Release Or Delivery From Custody.** The provisions of Chapter 938 Wis. Stats., shall govern to determine when a juvenile may be taken into custody and the release or delivery from custody.

(D) **Disposition Of Juvenile Adjudged To Have Violated A Civil Law Or Ordinance.** The provisions of Chapter 938 (juvenile justice code) Wis. Stats., as amended from time-to-time are adopted with respect to the disposition of a juvenile adjudged to have violated an ordinance including the provisions for suspension of operating privileges as defined in Sec. 340.01(40) Wis. Stats.

(E) **Disposition of Juvenile --Intoxicating Liquor And Beer Violations.** The provisions of Chapter 938 (juvenile justice code) Wis. Stats., as amended from time-to-time are adopted with respect to the disposition of a juvenile aged 14 and older adjudged to have violated intoxicating liquor or beer ordinances including the provisions for suspension of operating privileges as defined in Sec. 340.01(40) Wis. Stats.

(F) **Intent.** The intent of this ordinance is to recognize the special requirements and procedures of the juvenile justice code of the State of Wisconsin and to apply said code for all ordinance violations where mandated by Wisconsin Statutes notwithstanding other provisions of municipal ordinances and procedures which apply to adults. Where conflict exists in procedure or provisions of the children's code with other ordinance procedure or provisions for ordinance violations, provisions of the juvenile justice code shall prevail.

Reserved for future use.

Reserved for future use.