

CHAPTER 9

PUBLIC PEACE AND GOOD ORDER

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9.01 MUNICIPAL OFFENSES

(1) General offenses, life and bodily security offenses, public health and safety offenses, property offenses, sexual morality offenses, offenses against government and its administration, and offenses against public peace and order as defined below are all prohibited in the City of Kiel.

(a) GENERAL OFFENSES

(1) PARTY TO AN OFFENSE: Whoever is concerned in the commission of an offense is a principal and may be charged with and convicted of the commission of the offense although the person did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other degree of the offense or of some other offense based on the same act.

(a) A person is concerned in the commission of the offense if the person:

(1) Directly commits the offense; or

(2) Intentionally aids and abets the commission of it; or

(3) Is a party to a conspiracy with another to commit it or advises, hires, counsels or otherwise procures another to commit it. Such a party is also concerned in the commission of any other crime which is committed in pursuance of the intended crime and which under the circumstances is a natural and probable consequence of the intended crime. This paragraph does not apply to a person who voluntarily changes his or her mind and no longer desires that the offense be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the offense so as to allow the others also to withdraw.

(2) ATTEMPT: Whoever attempts to commit a violation of any local ordinance for the City of Kiel may be fined for such an attempt.

(b) LIFE AND BODILY SECURITY OFFENSES

(1) BATTERY: No person may cause 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.

(c) PUBLIC HEALTH AND SAFETY OFFENSES

(1) NEGLIGENT HANDLING OF BURNING MATERIAL: It is unlawful for anyone to handle burning material in a highly negligent manner or under circumstances in which the person should realize that a substantial and unreasonable risk of serious damage to property is created.

(2) NEGLIGENT OPERATION OF A VEHICLE : It is unlawful for anyone to endanger another's safety by a high degree of negligence in the operation of a vehicle, not upon a highway as defined in 340.01 WI Stats.

(3) INTERFERING WITH FIRE FIGHTING: It is unlawful for anyone to interfere with, tamper with or remove, without authorization, any fire extinguisher, fire hose or any other fire fighting equipment.

(a) It is unlawful for anyone to interfere with accessibility to a fire hydrant by piling or dumping material near it without first obtaining permission from the appropriate municipal authority.

(4) RECKLESS USE OF WEAPONS: It shall be unlawful to endanger another's safety by the negligent operation or handling of a dangerous weapon; or for any person to (a) Operate or go armed with a firearm while he or she is under

the influence of an intoxicant; or

(b) Operate or go armed with a firearm while he or she has a detectable amount of a restricted controlled substance in his or her blood. A defendant has a defense to any action under this paragraph that is based on the defendant allegedly having a detectable amount of methamphetamine, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol in his or her blood, if he or she proves by a preponderance of the evidence that at the time of the incident or occurrence he or she had a valid prescription for methamphetamine or one of its metabolic precursors, gamma-hydroxybutyric acid, or delta-9-tetrahydrocannabinol.

(c) Intentionally point a firearm at or toward another. This section does not apply to a law enforcement officer acting in official capacity

(d) While on the lands of another discharges a firearm within 100 yards of any building devoted to human occupancy situated on and attached to the lands of another without the express permission of the owner or occupant of the building. "Building" as used in this paragraph includes any house trailer or mobile home but does not include any tent, bus, truck, vehicle or similar portable unit.

(d) PROPERTY OFFENSES

(1) ENTRY INTO LOCKED VEHICLE: It shall be unlawful for anyone to intentionally enter the locked and enclosed portion or compartment of the vehicle of another without consent and with intent to steal therefrom.

(2) ENTRY INTO LOCKED COIN BOX: It shall be unlawful for anyone to intentionally enter a locked coin box of another without consent and with intent to steal therefrom.

(a) Whoever has in personal possession any device or instrumentality intended, designed or adapted for use in breaking into any coin box, with intent to use the device or instrumentality to break into a coin box and to steal therefrom, is in violation of this ordinance.

(3) TRESPASS TO LAND: Whoever does any of the following is in violation of this ordinance:

(a) Enters any enclosed, cultivated or undeveloped land of another without the express or implied consent of the owner or occupant.

(b) 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.

(c) 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.

(d) Enters or remains on open land that is in holding of another after having been notified by the owner or occupant not to enter or remain on the land.

(e) Enters undeveloped private land from an abutting parcel of land that is owned by the United States, this state 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.

(4) TRESPASS TO DWELLING: It shall be unlawful for anyone to intentionally enter 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.

(5) THEFT: It shall be unlawful for anyone to do any of the following:

(a) Intentionally take and carry away, use, transfer, conceal, or retain possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of such property

(b) Intentionally fail 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 after the lease or rental agreement has expired. This paragraph does not apply to a person who returns personal property, except a motor vehicle, which is in his or her possession or under his or her control by virtue of a written lease or written rental agreement, within 10 days after the lease or rental agreement expires

(c) In any action or proceeding for a violation of this ordinance a party may use duly identified and authenticated photographs of property which was the subject of the violation in lieu of producing the property.

(6) RETAIL THEFT: A person is in violation of this ordinance and may be penalized 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 a 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.

(7) ISSUE OF WORTHLESS CHECKS: Whoever issues any check or other order for the payment of not more than \$2,500 which, at the time of issuance, he or she intends shall not be paid is in violation of this section.

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

(1) Proof that, at the time of issuance, the person did not have an account with the drawee; or

(2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within 5 days after receiving written notice of nonpayment or dishonor to pay the check or other order, delivered by regular mail to either the person's last-known address or the address provided on the check or other order; or

(3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within 5 days after receiving written notice of nonpayment or dishonor to pay the check or other order, delivered by regular mail to either the person's last-known address or the address provided on the check or other order.

(4) This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check.

(8) DAMAGE TO PROPERTY: It is unlawful for anyone to intentionally causes damage to the physical property of another without the property owner's consent

(9) FRAUD ON HOTEL OR RESTAURANT KEEPER, RECREATIONAL ATTRACTION, TAXICAB OPERATOR, OR GAS STATION: It shall be unlawful for anyone to do any of the following:

(a) Having obtained any beverage, food, lodging, ticket or other means of admission, or other service or accommodation at any campground, hotel, motel, boarding or lodging house, restaurant, or recreational attraction, 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.

(d) Having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail, intentionally absconds without paying for the gasoline or diesel fuel.

(e) SEXUAL MORALITY OFFENSES

(1) LEWD AND LASCIVIOUS BEHAVIOR: Whoever does any of the following in a public place is in violation of this ordinance;

(a) Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others; or

(b) Publicly and indecently exposes genitals or pubic area. This section does not apply to a mother's breast-feeding of a child.

(2) SOLICITATION OF DRINKS PROHIBITED: Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued under WI Stat. ch. 125 who permits an entertainer or employee to solicit a drink of any alcohol beverage, as defined in WI Stat. ch. 125.02 (1), or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer, is in violation of this ordinance.

(f) OFFENSES AGAINST GOVERNMENT AND ITS ADMINISTRATION

(1) REFUSING TO AID OFFICER: It shall be unlawful for anyone without

reasonable excuse, to refuse or fail, upon command, to aid any person known by the person to be a peace officer.

(a) This section does not apply if under the circumstances present the officer was not authorized to command such assistance

(2) RESISTING OR OBSTRUCTING OFFICER: It shall be unlawful for anyone to knowingly resist or obstruct an officer while such officer is doing any act in an official capacity and with lawful authority. In this section:

(a) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty including the service of any summons or civil process.

(b) "Officer" means a peace officer or other public officer or public employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(3) ESCAPE FROM CUSTODY: It shall be unlawful for any person in custody of a police officer to intentionally escape from custody. In this section: "Custody" is defined as being pursuant to a legal arrest for or lawfully charged with or convicted of a violation of a statutory traffic regulation, a statutory offense for which the penalty is a forfeiture or a municipal ordinance

(4) IMPERSONATING PEACE OFFICERS: It shall be unlawful for anyone to impersonate a peace officer with intent to mislead others into believing that the person is actually a peace officer.

(5) TAMPERING WITH PUBLIC NOTICES: It shall be unlawful for anyone to intentionally damage, alter, remove or conceal any public notice, posted as authorized by law, before the expiration of the time for which the notice was posted

(6) CAUSING VIOLENCE OR BREACH OF PEACE BY DAMAGING OR DESTROYING A U.S. FLAG: In this section, "flag" means a flag of the United States consisting of horizontal stripes, alternately colored red and white, and a union of any number of white stars on a blue field.

(a) Whoever destroys, damages, or mutilates a flag, or causes a flag to come into contact with urine, feces, or excretion, with the intent to cause imminent violence or a breach of the peace under circumstances in which the actor knows that his or her conduct is likely to cause violence or a breach of the peace

(g) OFFENSES AGAINST PUBLIC PEACE AND ORDER

(1) DISORDERLY CONDUCT: It shall be unlawful for anyone, in a public or private place, to engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.

(a) PUBLIC URINATION/DEFECATION: It shall be unlawful for anyone to urinate or defecate on any street, park, alley, or any other public place or upon the property of another person without the consent of the owner of the property. Urination or defecation on private property shall only be permitted by the owner in an acceptable receptacle for such action.

(2) UNLAWFUL USE OF TELEPHONE: It shall be unlawful for anyone to do any of the following;

(a) With intent to harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

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

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

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

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

(f) Call an emergency number, including, but not limited to "911", without having a legitimate reason to make said call.

(3) HARASSMENT: It shall be unlawful for anyone with the intent to harass or intimidate another person, to do any of the following;

(a) Strike, shove, kick or otherwise subject 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. The following statutes following the prefix "9" defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under Section 25.04 of this Municipal Code. 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 public peace and good order.

9.02 POSSESSION AND USE OF FIREARMS AND DANGEROUS WEAPONS. It shall be unlawful for any person within the City of Kiel to carry or possess, either on his person or in any vehicle, any firearm or dangerous weapon under any circumstances in which such carriage or possession is prohibited by the Wisconsin Statutes.

(1) No person except as authorized by Wis. Stat. § 941.23 shall go armed with a concealed weapon.

(2) No person except as authorized by Wis. Stat. 941.235 shall go armed with a firearm in any building owned or leased by the state or any political subdivision of the state.

(3) No person except as authorized by Wis. Stat. 941.237, shall go armed with a handgun on any premises for which a Class "B" or "Class B" license or permit has been issued.

(4) No person except as authorized by Wis. Stat. 941.2965 may carry or display a facsimile firearm in a manner that could reasonably be expected to alarm, intimidate, threaten or terrify another person.

(5) No person except as authorized by Wis. Stat. 941.297 may sell or distribute any look-alike firearm.

(6) No person except as authorized by Wis. Stat 941.24 may manufacture,

sell or offer to sell, transport, purchase, possess or goes armed with 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.

9.03 THROWING OR SHOOTING OF ARROWS, STONES OR OTHER MISSILES OR PROJECTILES.

(a) No person shall place, throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground, vehicle or other public place within the City.

(b) A person may shoot a bow and arrow on private property for the purpose of target practice, but only if the following requirements are met:

(1) Only field tips or target tips may be attached to an arrow used for target practice on private property. Broadhead hunting tips including, but not limited to, razor tips may not be attached to an arrow used for target practice.

(2) Material must be attached to the back of any target which will prevent an arrow from completely passing through it.

(3) The target must be placed so that arrows missing the target will not enter neighboring properties or a building on the property may serve as a backstop.

(4) An adult must be physically present and supervising any person under the age of 16 while that person is target practicing with a bow and arrow.

(c) Hunting of any bird, wild fowl or animal with a bow and arrow or crossbow on property owned by the City of Kiel is prohibited.

(d) Hunting with a bow and arrow or crossbow may take place on private property within the City of Kiel with the following restrictions:

(1) No person may hunt on private property with a bow and arrow or crossbow that is within 100 yards of a building located on private property owned by another individual, unless the owner of the land on which the building is located allows hunting with a bow and arrow or crossbow within 100 yards of the building.

(2) Any person hunting with a bow and arrow or crossbow must be at an elevation where the discharge of the arrow or bolt from the respective weapon is always toward the ground.

(3) Hunters who harvest animals are responsible to immediately remove and clean up litter and/or debris caused by their action including carcasses and remains of the animals.

9.04 SALE AND DISCHARGE OF FIREWORKS RESTRICTED. Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this section as though set forth in full.

9.05 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED. No person shall stand, sit, loaf, loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place, except with the permission of the City Council upon written application to the Council.

9.06 LOUD, DISTURBING OR UNNECESSARY NOISE PROHIBITED. No person shall make or cause to be made any noise which unreasonably disturbs, or tends unreasonably to disturb, the peace and quiet of a person or persons in the vicinity thereof, unless the making and continuing of said noise cannot be prevented and is necessary for the protection or preservation of property or of the health or safety of some person.

9.07 GAMBLING, LOTTERIES OTHER THAN THOSE RUN BY THE STATE OF WISCONSIN, FRAUDULENT DEVICES AND PRACTICES PROHIBITED. All forms of gambling, lotteries other than those run by the State of Wisconsin, and fraudulent devices and practices are prohibited within the City. Any police officer of the City shall seize anything devised solely for gambling or found in actual use for gambling within the City and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

9.08 LOITERING PROHIBITED. (1) **LOITERING OR PROWLING.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, 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 to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection 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 HIGHWAY BY LOITERING.** No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

(3) **OBSTRUCTION OF TRAFFIC BY LOITERING.** No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street

crossings or bridges, or in any other public places within the City, in such manner as to prevent, interfere with or obstruct the ordinary free use of the public streets, sidewalks, street crossings and bridges or other public places by persons passing along and over the same.

(4) **LOITERING AFTER BEING REQUESTED TO MOVE.** No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police officer or by any person in authority at such places.

(5) **LOITERING – PUBLIC DRUNKENNESS.** A person who is so intoxicated that he or she is unable to care for his or own safety and is found in a public place in such condition is guilty of public drunkenness, and being in such condition is unlawful.

9.09 DESTRUCTION OF PROPERTY PROHIBITED. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the City or its departments, or to any private person without the consent of the owner or proper authority.

9.10 LITTERING PROHIBITED. No person shall throw any glass, garbage, rubbish, waste, slop, dirty water or noxious liquid, or other litter or unwholesome substance upon the streets, alleys, highways, public parks or other property of the City, or upon any private property not owned by him or upon the surface of any body of water within the City.

9.11 ANIMAL REGULATIONS. (1) No person shall own, harbor or keep any dog, cat or other animal in a domesticated environment which does any of the following:

(a) Habitually pursues any vehicle upon any public street, alley or highway or is allowed to run at large.

(b) Habitually barks, crows, cries, screeches, howls or makes any other loud or annoying sound which may tend to annoy or disturb one or more persons within the City; or

(c) Has not been licensed as required by the ordinances of the City and the laws of the State.

(2) **RESTRICTIONS ON KEEPING CATS OR DOGS.** (a) Any person owning or having charge, custody, care or control of any cat or dog shall keep such animals exclusively upon their own premises, either by keeping such animal upon an appropriate chain or tie no longer than 15' in length or in an enclosed yard

which is either walled or fenced by material or electronic means, or in any other appropriate restraining enclosure on the owner's property.

(b) A cat or dog may be off such premises only when if it is restrained by a substantial leash or chain not exceeding 8' in length, in the hands of the person directly controlling the movement of the animal, or if it is being trained or shown in an area or at an event approved for such purposes by the Director of Public Works. If an animal is not so provided for or restrained, it shall be considered to be "running at large". A dog is considered to be running at large if it is off the premises of its owner and not restrained by a substantial leash or chain.

(c) Cats and dogs shall be prohibited in all City parks, beaches or other public grounds, except for walkways, and except in areas designated by the Director of Public Works for the training or showing of cats or dogs.

(d) No person shall permit any domesticated animal including a cat or dog owned by him/her to defecate upon any property not owned by such persons without the consent of such other property owner or upon any public property, without immediately removing the feces left by the animal.

(e) Cats and dogs shall be prohibited on all private property except in cases where the presence of the cat or dog is with the express consent of the owner of the premises or party in control of such premises

(f) The owner of any animal that violates sections (1) or (2) of this ordinance will be subjected to a graduated enforcement and monetary fine schedule as listed below.

1st Offense; Written Warning

2nd Offense; Fine \$71.20

3rd Offense; Fine \$106.80

4th Offense; Fine \$186.90

5th and above; Fine \$373.80

(2) CONFINEMENT AND DISPOSITION. (a) Confinement of Offending or Running Animals. The Police Department or any officer appointed by the City Council may apprehend any dog or other animal found running at large within the City or which does any of the things prohibited under this ordinance and confine the same in a suitable place.

(b) Disposition of Unclaimed Dogs and Other Animals. The Police Department or the keeper of a pound shall keep all dogs or other animals apprehended until

they can be placed in an animal shelter, which shall be done as soon as possible (unless sooner claimed by the owner or keeper).

Prior to the release of any confined animal, the owner of the animal will pay a \$10 impound fee to the Police Department for each confined animal.

(3) ANIMAL BITES. (a) Every owner or person harboring or keeping an animal including a dog or cat who knows that such animal has bitten any person accidental or otherwise shall immediately report such fact to the police department, and shall follow all prescribed quarantine procedures as directed by the police department in accordance with directions by the appropriate county health department. All of the costs associated with the quarantine are the responsibility of the owner or keeper of such animal. This section does not apply to a dog that is used by a law enforcement agency if the dog injures a crime suspect while the dog is performing law enforcement functions.

(b) The police department shall investigate and complete a formal report detailing all incidents of reported animal bites and determine if the incident warrants further enforcement action. Upon completion of their investigation, the police department will make a determination as to whether or not the animal bite incident was the result of an accident or that the animal is vicious.

(c) Upon demand; the owner or keeper of any such dog, cat, or other animal involved in a bite incident shall surrender the animal to the police department for examination by a licensed veterinarian. All of the costs associated with the examination are the responsibility of the owner or keeper of such animal.

(d) No person shall own, harbor or keep any dog, cat or other animal in a domesticated environment which assaults or attacks any person or is otherwise deemed vicious. A showing that a dog or other animal has bitten, attacked or injured any person shall constitute a prima facie showing that such dog or animal is vicious.

(e) The owner or keeper of any animal that violates section (3) of this ordinance will be subjected to a graduated enforcement and monetary fine schedule as listed below.

1st Offense; Fine \$106.80

2nd Offense; Fine \$186.90

(4) COURT ORDER TO KILL A DOG (a) In accordance with state law; the City of Kiel may determine that a dog is vicious and seek civil action to obtain a judgment from a court ordering that a dog be killed in a humane manner at the owner or keeper's expense.

(b) The court may grant the judgment to have the dog killed if the court finds;

(1) The dog caused serious injury to a person or domestic animal on 2 separate occasions off the owner's property, without reasonable cause.

(2) The owner of the dog was notified or knew prior to the 2nd injury, that the dog caused the first injury.

9.12 TRAPS PROHIBITED. Use of any devices or traps that shut suddenly as with a spring, for taking game and other animals, except for live box traps, shall be prohibited within the City.

9.13 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED. No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person, and any cover shall be of a design, size and weight such that the same cannot be removed by small children. Any violation of this section is a public nuisance and may be disposed of in accordance with Chapter 823, Wis. Stats.

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

9.15 CURFEW. (1) HOURS. (a) Specified. No person under the age of 17 shall loiter, idle or remain upon any street, alley or other public place in the City between 11 p.m. and 5 a.m. the next day unless such person is accompanied by his parent, guardian or other adult person having legal custody of such person.

(b) Exceptions. 1. This section shall not apply to a child:

a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.

b. Who is performing an errand of urgent necessity.

c. Who is on his own premises or in the areas immediately adjacent thereto.

d. Whose employment makes it necessary to be upon the streets,

alleys or public places or in any motor vehicle during such hours.

e. Who is returning home from a supervised school, church or civic function, or going to or from places of business, amusements or private homes.

f. Any activities protected by the First Amendment.

g. An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage.

h. Any activity conducted by a non-profit or governmental entity that provides recreation, education, training or other care under the supervision of one or more adults.

2. These exceptions shall not, however, permit a person to loiter unnecessarily about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(2) PARENTAL VIOLATION. No parent, guardian or other person having legal custody of a person under the age of 17 years shall permit such person to loiter, idle or remain upon any street, alley or other public place in the City between 11 p.m. and 5 a.m. the next day, unless such person is accompanied by his parent, guardian or other adult person having legal custody of such person.

(3) RESPONSIBILITY OF OPERATORS OF HOTELS, MOTELS AND ROOMING HOUSES. No person operating a hotel, motel or lodging or rooming house within the City, or any agent, servant or employee of such person, shall permit any person under the age of 17 years to visit, idle, wander or stroll in any portion of such hotel, motel or lodging or rooming house between 11 p.m. and 5 a.m. the next day unless such person is accompanied by his parent, guardian or other adult person having legal custody of such person.

(4) LOITERING IN SCHOOL AND SCHOOL CAMPUS. [#360 3/13/90, #376 2/25/92] No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand or play in any school building or in or about any school campus area adjacent thereto within the City. This prohibition shall apply to school buildings, playground areas, parking lots, and all other school properties.

(5) DETAINING A PERSON UNDER 17 YEARS OF AGE. A person under 17 years of age, believed to be violating the provisions of this section, shall be taken to the Police Department or the County Sheriff's Department for proper identification. Any law enforcement officer on duty may, consistently with the provisions of Section 938.19, Wis. Stats., detain any person under the age of 17 years violating subs. (1), (3) or (4) until such time as the parent, guardian or adult person having legal custody of such person has been immediately notified and the person so notified has, as soon as reasonably possible thereafter,

reported to the Police Department or the Sheriff's office for the purpose of taking such person into custody and has signed a release for him.

(6) **WARNING.** The first time a person under 17 years of age is detained by law enforcement officers as provided in sub. (5), the parent, guardian or person having legal custody shall be advised as to the provisions of this section; and any violation of this section occurring thereafter by such person, or any other person under such adult's care or custody, shall result in a penalty being imposed as provided in sub. (7).

(7) **GENERAL PENALTY.** (a) Any parent, guardian or person having legal custody of a person under 17 years of age described in subs. (1), (3) or (4) who has been warned in the manner provided in sub. (6), and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.

(b) Any person under 17 years of age who violates this section after being detained and released under sub. (5) shall be dealt with under Chapter 938, Wis. Stats.

9.16 PARK CLOSING HOURS. (1) All City parks shall be closed to the public between 10 p.m. and 5 a.m.

(2) Persons found in a park or its roadways during the above closed period shall be considered violators.

(3) Special permission to enter a park during the above hours may be granted by the Chief of Police where ingress and egress for property adjoining the park is necessary. Use of a City park after closing hours may be granted only upon application to the City Council for a special park use permit.

9.17 BURNING, RECREATIONAL FIRES, AND OUTDOOR COOKING FIRES. [#419 7/14/98] (1) **BURNING.** Burning of garbage and rubbish is prohibited. No person, other than the City or its agents, shall set fire to or burn any garbage or rubbish on any street or on any public or private premises. "Garbage" as used herein is defined as "discarded materials resulting from the handling, processing, storage and consumption of food". "Rubbish" as used herein is defined as "non-organic discarded materials which are not food or foodstuffs".

(2) **RECREATIONAL FIRES.** "Recreational fire" is defined as follows: Any fire such as a camp fire or cooking fire located at a single or two-family private residence for the purpose of recreation and personal enjoyment. All recreational fires shall comply with the following requirements:

(a) No recreational fire pit, portable fire pit or fireplace shall be closer than fifteen (15) feet from any building structure, shed, or garage.

(b) No recreational fire shall be in an area larger than three (3) feet by three (3) feet.

(c) All recreational fires shall be in a below ground fire pit with minimum depth of ten (10) inches and shall be covered when not in use or the fire pit shall be surrounded on the outside, above the ground, by a noncombustible material such as concrete block or rock.

(d) Portable fire pits shall be extinguished when not attended by a responsible person. It is recommended to have a cover and screen but not mandatory.

(e) No recreational fire shall be started unless there are favorable conditions for burning with regard to wind direction and speed.

(f) Material for recreational fires shall not include rubbish, garbage, treated wood, wet wood, trash or hazardous materials and shall not contain any flammable or combustible liquids as prohibited in Section 14.06 of the City's Code of Ordinances.

(g) All recreational fires shall be attended at all times by at least one (1) responsible person of age sixteen (16) years or older.

(h) No open fire shall be allowed that causes smoke which is a public nuisance or causes a traffic hazard because of diminished visibility. Public nuisance is defined as set forth in Section 10.02 of the City's Code of Ordinances.

(i) The entity, person, firm, association, corporation, limited liability company (L.L.C.), limited liability partnership (L.L.P.) , or property owner starting a fire shall be liable for any damage caused by any open fire. The City of Kiel Police Department will be charged with requiring any entity, person, firm, association, corporation, L.L.C., L.L.P., or property owner from ceasing and desisting from the violation of the provisions of this ordinance. In the event any such entity, person, firm, association, corporation, L.L.C., L.L.P., or property owner fails or refuses to comply with a directive from the police department to cease and desist from any violation of this ordinance, then, in that event, the Kiel Fire Department may be requested by a law enforcement officer to extinguish the fire. If so requested the cost of controlling and/or extinguishing the fire by the Kiel Fire Department shall be a cost charged to the property owner, entity, person, firm, association, corporation, L.L.C. or L.L.P. who has violated this ordinance and shall be payable by that violator in addition to the forfeiture required herein. The costs chargeable to the violator for the fire department's control or extinguishing of such a fire shall be at the going rate to be reviewed yearly by the City of Kiel Fire Department.

(3) **OUTDOOR COOKING FIRE.** Open or closed outdoor cooking fires (barbecue grills) and approved grills and/or containers are exempt from the open fire requirements as described hereinabove except as follows:

For all dwellings more than one story in height, the use of any propane or charcoal portable cooking device or any portable fireplace device is strictly prohibited above the first floor occupancy.

(4) **EMERGENCY POWERS OF THE FIRE CHIEF.** When the Fire Chief determines there are environmental conditions likely to produce a fire which would constitute a serious threat to life and property, the Fire Chief shall be authorized to impose a burning ban and burning restrictions and to require that no person may:

(a) Set, build or maintain any open fire, except a fire in a charcoal- or wood-burning grill, or a gas grill or camp stove, when in the immediate vicinity of a residence and when placed on a noncombustible surface;

(b) Throw, discard or drop matches, ashes or other burning materials while outdoors in the immediate vicinity of combustible natural vegetation;

(c) Light or use any fireworks, as defined by the Wisconsin Statutes, or caps, toy snakes, sparklers, smoke bombs, or cylindrical or cone fountains which emit sparks and smoke, except in displays or for a use authorized by the Fire Chief, where adequate fire prevention measures have been taken;

(d) At such time as the Fire Chief determines that he needs to exercise the emergency powers prescribed herein, he shall notify the residents of the City through publication and posting, if reasonably able to do so if the emergency is not so great as to make it unreasonable for him to spend time in doing so, through one insertion in the official newspaper of the City and through posting at the City Hall, in both cases at least one week before the Fire Chief proposes to implement the burning ban or burning restrictions.

(5) **VIOLATIONS.** Any entity, person, firm, association, corporation, limited liability company, limited liability partnership, or property owner who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 25.04 of the City of Kiel Code of Ordinances as well as payment of actual costs incurred by the Kiel Fire Department as prescribed in Section (2)(i) above.

9.18 DRUG PARAPHERNALIA: (1) 'Drug paraphernalia' as used in this ordinance is defined as stated in Wisconsin Statutes Section 961.571, as revised or amended from time to time.

(2) No person may used, 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 introduce into the human body, a controlled substance or controlled substance analog in violation of Wisconsin Statutes Chapter 961.

(3) This ordinance applies only to persons who do not have a previous conviction for possession of drug paraphernalia or any other drug related offense.

(4) All provisions of Wisconsin Statutes Sections 961.573(1) and (2), 961.50 and 938.344(2e), as revised or amended from time to time, are hereby incorporated by reference.

(5) A person who violates any provision of this ordinance is subject to a forfeiture of not less than \$50. Enforcement procedures shall be those set forth in Section 25.04 of the Kiel Municipal Code.

9.19 PURCHASE AND POSSESSION OF CIGARETTES AND TOBACCO PRODUCTS BY JUVENILES PROHIBITED. [#400] (1) DEFINITIONS. (a) "Cigarette" has the meaning given in Section 139.30(1), Wis. Stats.

(b) "Distributor" means a person specified under Section 139.30(3) or 139.75(4), Wis. Stats.

(c) "Identification card" means a license containing a photograph issued under Section 343.17, Wis. Stats.; an identification card issued under Section 343.50, Wis. Stats., and an identification card issued under Section 125.085, Wis. Stats.

(d) "Jobber" has the meaning given in Section 139.30(6), Wis. Stats.

(e) "Law Enforcement Officer" has the meaning given in Section 165.85(2)(c), Wis. Stats.

(f) "Manufacturer" means any person specified under Sections 139.30(7) or 139.75(5), Wis. Stats.

(g) "Place of business" means any place where cigarettes or tobacco products are sold, manufactured or stored for the purpose of sale or consumption, including any building, vessel, vehicle, airplane, train or vending machine.

(h) "Retailer" means any person licensed under Section 134.65(1), Wis. Stats., for the sale of cigarettes and tobacco products.

(i) "School" has the meaning given in Section 115.01(1), Section 115.001(1) and Section 115.001(3r), Wis. Stats.

(j) “Subjobber” has the meaning given in Section 139.75(11), Wis. Stats.

(k) “Tobacco products” has the meaning given in Section 139.75(12), Wis. Stats.

(l) “Vending machine” has the meaning given in Section 139.30(14), Wis. Stats.

(m) “Vending machine operator” has the meaning given in Section 139.30(15), Wis. Stats.

(n) “Nicotine product” has the meaning given in s. 134.66(1)(f).

(2) RESTRICTIONS AND LIMITATIONS ON USE AND SALE. (a) No person under the age of 18 shall buy any cigarettes or tobacco products for his or her own use or that of anyone else; nor shall any person under the age of 18 attempt to buy any cigarettes or tobacco products by falsely representing his or her age for the purpose of receiving any cigarette or tobacco product, or for possessing any cigarette or tobacco product.

(b) Notwithstanding the provisions of subsection (a), a person under the age of 18 may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of his or her employment during working hours, if employed by a retailer licensed under Section 134.65(1), Wis. Stats.

(c) No retailer shall sell or give cigarettes or tobacco products to any person under the age of 18, with the sole exception of providing cigarettes or tobacco products to a person under the age 18 for the sole purpose of resale in the course of that person’s employment during his or her working hours.

(d) A vending machine operator shall not be liable for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase at the time it was made and had no reason to believe that a purchase had been made by a person under the age of 18.

(e) A retailer shall post a sign in areas within his or her place of business’s premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this ordinance and under Wisconsin state law, if applicable.

(f) No person shall place a vending machine dispensing cigarettes or tobacco products within 500 feet of a school building.

(g) No manufacturer, distributor, jobber, subjobber or retailer, or any

employee or agent of any of the above, shall provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.

(h) A retailer who sells cigarettes or tobacco products to a person under the age of 18 shall have to prove all of the following facts in order to establish a defense to any prosecution for a violation of the prohibition of selling or giving cigarettes or tobacco products to any person under the age of 18.

1. That the purchaser falsely represented that he or she had attained the age of 18 and presented to the retailer, or to the employee or agent of the retailer, an identification card purporting to show that the person under the age of 18 had attained the age of 18.

2. That the appearance of the purchaser was such that an ordinary and prudent person would reasonably believe that the purchaser had attained the age of 18.

3. That the sale was made in good faith, in reasonable reliance upon the identification card and the appearance of the purchaser, and in the good faith belief that the purchaser had attained the age of 18.

4. A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under s. 254.916 that is conducted in accordance with s. 254.916(3) and subsection

5. No Person over the age of 18 may purchase or provide cigarettes, nicotine products, or tobacco products to a person under 18 years of age.

(i) A law enforcement officer shall be authorized to seize any cigarette or tobacco product involved in any violation of the prohibitions established in this ordinance when that violation is committed in the presence of the law enforcement officer.

(j) In enforcement of the prohibitions established in this ordinance, a court of law shall have available to it the penalty alternatives provided in Section 134.66, Wis. Stats.

(k) The provisions of this ordinance are separable. If any part of this ordinance is determined to be unconstitutional or contrary to law, the remainder of the ordinance shall remain in full force and effect.

9.20 PROHIBITION OF SMOKING

Definition: As used herein, to “smoke” means to carry a lighted cigar, cigarette, pipe or any other lighted smoking equipment. The term “smokeless tobacco”

means any tobacco, which is used by means other than smoking.

1. No person may, at any time, use any tobacco product, nicotine product and electronic smoking devices, or any derivative of a tobacco product, in a public or private school building, on public or private school grounds, in a public or private school vehicle, or in or upon any public or private school facility within the City of Kiel.
2. Smoking Prohibited in Enclosed Spaces. Effective July 5th, 2010 the City of Kiel hereby adopts and incorporates by reference Section 101.123 of the Wisconsin Statutes, as amended from time to time, prohibiting smoking in enclosed places.
3. Any person violating this section of the Municipal Code shall be subject to forfeiture under the terms of Section 25.04 of the Municipal Code.

9.21 TRUANCY AND HABITUAL TRUANCY. [#361 4/24/90, #417 4/13/99] (1) DEFINITIONS. For the purposes of this Section, the following terms shall have the following meanings:

(a) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of the absence by the pupil's parent or guardian and also means intermittent attendance carried on for the purposes of defeating the intent of the compulsory school attendance law.

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

(c) "Habitual Truancy" means any absence from school without an acceptable excuse for part or all of five (5) or more days on which school is held during a school semester.

(d) "Habitual Truant" means a pupil who is absent from school without an acceptable excuse for part or all of five (5) or more days on which school is held during a school semester.

(e) "Dropout" means a child who has ceased to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school, is not enrolled in a program leading to high school graduation or a high school equivalency diploma and does not have an acceptable excuse for being absent from school.

(f) "School Attendance Officer" means an employee designated by the School Board to deal with matters relating to school attendance and truancy. "School Attendance Officer" does not include a person designated to take truants into custody, unless that person has also been designated to deal with matters related to school attendance and truancy.

(g) "Acceptable Excuse" shall mean written approval of a child's parent or guardian for participation of that child in a program or curriculum modification under Section 118.15 of the Wis. Stats., or in a written statement provided by a parent, a medical doctor, or a psychiatrist or psychologist, or a registered psychiatric counselor, setting forth the specific reasons why a pupil may be or has been absent from school during a period of time for which the student was enrolled and expected by the school authorities to be attending classes, which said written statement shall meet the standards for an "acceptable excuse" as established by Sections 118.15 and 118.16 of the Wis. Stats.

(2) TRUANCY VIOLATION. It shall be a violation of the Kiel Municipal Code for a child to be a "truant" as defined in Section 9.21(1)(b).

(3) PENALTY. The following penalties may be imposed, in alternative form, upon a child found to be truant after being so charged under Section 9.21(2).

(a) Suspension of the child's operating privilege for operation of an automobile, as defined in Section 340.01(40) of the Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days. Any suspension under this section shall be accompanied by a notice stating the reason for and duration of said suspension directed to the Wisconsin Department of Transportation, Motor Vehicle Division.

(b) A forfeiture in an amount not greater than \$50.00 for a first offense and not more than \$100.00 for a second, third or fourth offense.

(c) Ordering of the child to participate in counseling, community service, or a supervised work program as provided for in Sections 938.34 (1) and 938.34(5g) and (5m), Wis. Stats.

(d) An order that the child shall remain at home except during hours in which he or she shall attend religious worship or a school program, including travel time required to get to and from the school program or place of worship. An order that the child remain at home except for attendance at religious worship or a school program may permit the child to leave his or her home if accompanied by a parent or guardian.

(e) An order that the child attend an educational program as provided for in Section 938.34(7d), Wis. Stats.

(4) HABITUAL TRUANCY VIOLATION. It shall also be a violation of the Kiel Municipal Code for a child to be an "habitual truant", as defined in Section 9.21(1)(d).

(5) PENALTY. The following penalties may be imposed, in alternative

form, upon a child found to be an habitual truant after being so charged under Section 9.21(4).

(a) Suspension of the child's operating privilege for operation of an automobile, as defined in Section 340.01(40) of the Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days. Any suspension under this section shall be accompanied by a notice stating the reason for and duration of said suspension directed to the Wisconsin Department of Transportation, Motor Vehicle Division.

(b) A forfeiture in an amount not greater than \$500.00 plus, if the child is fourteen (14) years of age or older, court costs. Said forfeiture plus costs may be assessed against the child, the child's parents or guardian, or both.

(c) Ordering of the child to participate in counseling, community service, or a supervised work program as provided for in Sections 938.34(1) and 938.34(5g) and (5m), Wis. Stats.

(d) An order that the child shall remain at home except during hours in which he or she shall attend religious worship or a school program, including travel time required to get to and from the school program or place of worship. An order that the child remain at home except for attendance at religious worship or a school program may permit the child to leave his or her home if accompanied by a parent or guardian.

(e) An order that the child attend an educational program as provided for in Section 938.34(7d), Wis. Stats.

(6) REFERENCE TO STATUTES. References to specific statutory sections wherever used in this ordinance shall mean the Wis. Stats. of 1999-2000, as from time to time amended, modified, repealed or otherwise altered by the legislature of the State of Wisconsin.

(7) SEVERABILITY. If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

9.22 FAILURE TO RETURN LIBRARY MATERIALS ON TIME. [#401 4/12/96] (1) Any person who has checked out library materials using the process established by the staff of the Kiel Public Library, and who fails to return the materials by the due date as indicated to the borrower at the time that the books, video tapes or other library materials, are to be returned, shall be sent a warning letter at the last known registered address of said borrower, requiring return of the borrowed item or items within 14 days of the date of the warning letter. If any borrowed item is not returned on the date stated, that shall be a violation of this ordinance by the borrower and each day thereafter on which the item is not returned shall be a separate violation by the borrower,

of this ordinance.

(2) The Library Director shall file a complaint with the Police Department for any violation and the Police Department shall issue a citation thereon.

(3) A forfeiture of not less than \$10 nor more than \$50 may be assessed for each violation of Section 9.22(1), in addition to assessment of the Library's original purchase cost for the library materials not returned. Enforcement procedures shall be those set forth in Section 25.04 of the Kiel Municipal Code.

9.225 RELATING TO PUBLIC PEACE AND GOOD ORDER IN PARKS

It shall be unlawful for any person in the Kiel Park system to operate, use or have in the marked restricted area for skateboard any bicycle, motorcycle or any other motorized vehicle.

9.23 PENALTY. (1) Except as otherwise provided in this chapter, any person who shall violate any provision of this chapter shall be subject to penalty as provided in Section 25.04 of this Municipal Code.

(2) In addition to any penalty imposed for violation of Section 9.09 of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 9.09 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with Section 895.035, Wis. Stats.

9.24 FAILURE TO OBEY PUBLIC OFFICIAL. (1) It shall be unlawful for anyone to knowingly fail to obey a lawful order or directive given by a public official.

(2) In this section: "Public Official" is defined as any public officer or official, elected or appointed, who is employed by the City of Kiel and who is acting in official capacity within the scope of his/her employment or position at the time the order or directive is issued. Such order or directive from the public official can be either verbal or written.

9.25 FALSE ALARMS. (1) In this section, "alarm" is defined as any device that when activated by whatever means designed produces an audible or visual alert or cause the notification of an alarm processing center which in turn prompts the response of a law enforcement officer to respond to the location to investigate the cause of the alarm.

(2) No person shall give or cause a false alarm of any type to be

activated. Alarms require emergency police response and false alarms threaten public peace and order and jeopardize the safety of all involved. False alarms include all of the following activations whether intentional or accidental, but do not include alarms activated when the cause is determined to be weather related due to storms or electrical outages.

- (a) Activation of alarm due to maintenance testing of an alarm system when the activator of the system has not notified the police and fire departments and/or dispatch center in advance.
- (b) Activation of alarm due to improper entry of alarm codes and/or improper entry or exit into or from the area or structure where alarm is located or functioning.
- (c) Mechanical failure of alarm system other than due to power shortage or weather related.

(3) The police department will issue written warning notices to business and residential property owners and/or individuals on scene during investigation of alarms advising them of the alarm's activation and the police department's response to that alarm. After two (2) such false alarm notices have been issued to a business or residential property, the police department will issue citations to the property owner or other appropriate party based upon the classification of the structure and/or area where the alarm is located on the following fine schedule.

- (a) Third false alarm \$50.00
- (b) Fourth and above false alarms \$100.00

9.26 POSSESSION OF TETRAHYDROCANNABINOLS: (1) No person may possess or attempt to possess tetrahydrocannabinols, commonly known as 'THC', in any form, including but not limited to tetrahydrocannabinols that are contained in marijuana, obtained from marijuana, or chemically synthesized, or any controlled substance analog of tetrahydrocannabinols, unless the person obtains the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who is acting in the course of his or her professional practice, or unless the person is otherwise authorized by state statute to possess the substance or the analog.

(2) This ordinance applies only to person who do not have a previous conviction for possession of tetrahydrocannabinols or for any other drug related offence, and only if the quantity of tetrahydrocannabinols is less than 8 grams at the time that is weighed by law enforcement.

(3) All provisions of Wisconsin Statutes Sections 961.41(3g), 961.50, and 938.344.(2e), as revised or amended from time to time, are hereby incorporated by reference.

(4) A person who violates this ordinance is subject to a forfeiture of not

less than \$50 nor more than \$1000. Enforcement procedures shall be those set forth in Section 25.04 of the Kiel Municipal Code.

(5) A positive result for the presence of cannabinoids, using the police department's approved field test, shall be prima facie evidence of possession in this ordinance.

9.27 USE OF A DRONE. It shall be unlawful for anyone to use a drone, as defined in Wis. Ss. 175(1)(a), with the intent to photograph, record, or otherwise observe another individual in a place or location where the individual has a reasonable expectation of privacy. This section does not apply to a law enforcement officer authorized to use a drone pursuant to Wis. Ss. 175.55(2).

9.28 – PARENTAL RESPONSIBILITY FOR JUVENILE MISCONDUCT

(1) Purpose. The purpose of this section is to reduce the incidents of misconduct by juveniles by requiring proper supervision on the part of custodial parents.

(2) Definitions. For Purposes of this section, unless otherwise defined:

a. "Child" means a person under the age of eighteen years.

b. "custodial parent" means a parent or legal guardian of a minor child who has custody of said child.

c. "Custody" means either physical custody of a child under a court order specific to sections of the Wisconsin Statutes, custody of a child under a stipulation under Wisconsin Statutes, or actual physical custody of the child. Custody does not include legal custody, as defined under Section 48.02(12) Wisconsin Statutes, by an agency or a person other than a child's birth or adoptive parent. In determining which parent has custody of a child for purposes of this section, the court shall consider which parent had responsibility for caring for and supervising the child at the time that the child's ordinance violations occurred.

(3) Prohibited Conduct. Every custodial parent has a duty to properly supervise his or her child. Any custodial parent whose child is convicted of a City of Kiel Municipal Code violation twice in a six-month period or three or more times within a twelve-month period is guilty of failing to properly supervise said child. The six and twelve-month periods shall be measured from the date of the first violation.

(4) Penalty. The offense described under section three (3) shall be subject to penalty of a minimum of \$100 and a maximum of not more than \$1,000.

(5)(a) Defenses. The following shall be defenses to a violation of section 3:

- a. Where the parent has made all reasonable and available efforts under the circumstances to prevent the juvenile misconduct;
 - b. Where the parent is not legally responsible for the supervision of the juvenile at the time the misconduct occurred; or
 - c. Where the parent has a physical or mental disability or incompetency rendering them incapable of supervising the juvenile at the time the misconduct occurred.
- (b) It is not a defense where the parent assigns their parental responsibility to another, except pursuant to legal proceedings which result in a court order effectuating the same.
- (c) the parent has the burden of proving their defense by clear and satisfactory evidence.

9.29 - SEXUAL OFFENDER RESIDENCY RESTRICTIONS.

(1) FINDING AND ISSUE:

(a) Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) It is the intent of this section not to impose a criminal penalty but rather to serve the City's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

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

(a) Child means a person under the age of 18 for the purpose of this section.

(b) Designated Offender means any person who is required to register under Wis. Stat. ' 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. ' 301.45 for whom a bulletin to law enforcement agencies has been issued under Wis. Stat. ' 301.46(2m).

(c) Loitering means whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle.

(d) Permanent Residence means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

(e) Temporary Residence means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

(f) Adult Child for the purposes of this section means a person who is 18 years of age or older.

(3) SEXUAL OFFENDER AND SEXUAL PREDATOR RESIDENCE; PROHIBITION; PENALTIES; EXCEPTIONS.

(a) Prohibited Location of Residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1,000 feet of any school, licensed day care center, park, recreational trail, playground, place of worship or library.

(b) Prohibited Loitering. It is unlawful for any designated offender to loiter within 500 feet of any school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the City as a place where children are known to congregate.

(c) Prohibited Activity. It is unlawful for any designated offender to participate in a holiday event involving children under 18 years of age, such as distributing candy or other items to children. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.

(d) Measurement of Distance.

1. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, recreational trail, playground, place of worship or any other place designated by the City as a place where children are known to congregate.

2. The Kiel Police Department shall prepare an official map showing

prohibited locations as defined by this section. The Kiel Police Department shall also maintain the map on file at the Kiel Police Department and update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.

(e) Exceptions. A designated offender residing within a prohibited area as described in paragraph (3) does not commit a violation of this section if any of the following apply:

1. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. ' 301.45 before the effective date of this ordinance.
2. The person is a minor or ward under guardianship.
3. The school, licensed day care center, park, recreational trail or playground within 1,000 feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. ' 301.45.
4. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse or adult children, provided that such parent, grandparent, sibling, spouse or adult child established the residence at least two years before the designated offender established residence at the location.

(f) Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators.

1. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this article, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in paragraph 3(a), and not subject to an exception set forth in paragraph 3(e) above.
2. A property owner's failure to comply with this section shall constitute a violation of this ordinance and shall subject the property owner to the penalties set forth in Section (5).

(g) Appeal.

1. The above 1,000 foot requirement may be waived upon approval of the Kiel City Council through appeal by the affected party. Such appeal shall be made in writing to the City Clerk's Office, who shall forward the request to the Kiel City Council, which shall receive reports from the City of Kiel Police Department on such appeal. The Kiel City Council shall convene and consider

the public interest, as well as the affected party's presentation and concerns. After deliberation, the Kiel City Council shall forward its decision in writing via the minutes or otherwise to the City of Kiel Police Department for their information and action. A written copy of the decision shall be provided to the affected party.

(4) SEVERABILITY. The provisions of this Ordinance shall be deemed severable and it is expressly declared that the Common Council would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provisions of this Ordinance or the application to any person or circumstance are held invalid, the remainder of this Ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

(5) PENALTIES. A person who violates any provision of this section shall be punished by a forfeiture set forth in Section 25.04 of this Municipal Code. Each day a person maintains a residence in violation of this section constitutes a separate violation. The City of Kiel may also seek equitable relief.