Title 11 ▸ Chapter 2

Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms, Paintball Devices, Explosives, and Other Missiles
11-2-2	Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited
11-2-3	Safe Use and Transportation of Firearms and Bows
11-2-4	Sale and Discharge of Fireworks Restricted
11-2-5	Obstructing Streets and Sidewalks Prohibited
11-2-6	Loitering and Unlawful Assemblies Prohibited
11-2-7	Loud and Unnecessary Noise Prohibited
11-2-8	Disorderly Conduct
11-2-9	Unauthorized Presence on School Property
11-2-10	Failure to Obey Lawful Order; Resisting an Officer
11-2-11	Possession of Controlled Substances; Marijuana; Toxic Inhalants
11-2-12	Crossing a Police Line
11-2-13	Harassment
11-2-14	Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited
11-2-15	Gambling, Lotteries, Fraudulent Devices and Practices Prohibited
11-2-16	Obstructing Emergency or Rescue Personnel
11-2-17	Improper Use of Lodging Establishments
11-2-18	Sexual Offender Residency Restrictions

Sec. 11-2-1 Regulation of Firearms, Paintball Devices, Explosives, and Other Missiles.

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

(1) ***Discharge Prohibited.*** No person shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description in his/her possession or under his/her control within the Village of Elk Mound.

(2) ***Exceptions.*** The following shall not constitute a violation of Subsection (a) above:

a. The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or legal guardian.

b. A person working for a firm or under a plan designated by the Village Board to harvest wildlife pursuant to a Wisconsin Department of Natural Resources-approved Wildlife Management Program.
c. The discharge of a firearm by a law enforcement officer or military personnel acting within the line of duty, including but not limited to active operations, training exercises and ceremonies.
d. The discharge of a firearm in defense of human life or the residence or place of business of the person discharging the firearm.
e. The discharge of a firearm at an event, for which the party organizing or promoting such event has obtained a special permit issued by the Chief of Police.

(b) **Hunting Prohibited.** No hunting of any kind shall be allowed within the corporate boundaries of the Village of Elk Mound. This provision does not apply to persons authorized by firms hired by the Village of Elk Mound to conduct wildlife harvest pursuant to DNR- approved Wildlife Management Programs. Open hunting seasons as defined by the Wisconsin Department of Natural Resources shall not be effective within such municipal boundaries. [See Subsections (e) and (h)].

(c) **Shooting Into Village Limits.** No person shall in the territory adjacent to the Village discharge any firearm in such manner that the discharge shall enter or fall within the Village of Elk Mound in a dangerous manner.

(d) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the Village without first obtaining a permit to do so from the Village Board.

(e) **Throwing or Shooting of Arrows, Stones, or Other Missiles Prohibited.**

(1) ***Prohibition.*** It shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot, bow and arrow or other means within six hundred (600) feet of any inhabited dwelling or building or any public park, square or enclosure.

(2) ***Exceptions.*** This Subsection shall not apply:

a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.
b. To a supervised archery range approved by the Village Board.
c. Within the interior of a single family dwelling.
d. To private archery practice provided such targets are placed in front of a building or an open agricultural field in such a manner as to prevent stray arrows from crossing or entering adjacent properties, provided that such person first has been granted permission by the Village Board, in writing, to construct and maintain an approved archery range if in the opinion of the Village Board, the construction of such range will in no way endanger the public health and safety.

(f) **Paintball Discharge Limited.** No person shall on any private property without the express permission of its owner or on any public property (including but not limited to public

streets, sidewalks, parks, playgrounds, schools, open spaces, recreation facilities or any other public facility and/or grounds) discharge or cause to set off a paintball gun, except as provided as follows:

(1) ***Business Exclusion.*** This Subsection specifically excludes any business engaged in the operation of paintball games operating within the appropriate zoning district in which the discharge of paintball guns is carried out in an approved controlled environment.

(2) ***Exclusion on Private Property.*** This Subsection specifically excludes the operation of a paintball gun on private property contingent upon the use of such paintball device being limited to a target which is protected by an appropriate barrier from other private property and prevents damage to same. Under no circumstance shall paintball guns be permitted to be aimed at other human beings and/or animals; this exclusion applies only to an appropriate target on private property.

(g) **Definitions.** For purposes of this Section:

(1) ***Firearm.*** Any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

(2) ***Paintball Devices.*** Any paintball gun/device which is designed or intended to expel a projectile containing paint, ink, or similar material which can cause injury to people or property.

(h) **Hunting Exception.**

(1) Subsections (b) and (e) shall not apply to hunting of deer when it has been determined by the Village Board that such hunting is necessary for proper game management or to protect persons, parks or other property, and would not pose a threat to health and safety in the area where such hunting shall take place. Such hunting may only take place at such time, place and manner as the Village Board may direct.

(2) Subsections (b) and (e) shall not apply to the fall hunting of turkey when it has been determined by the Village Board that such hunting is necessary for proper game management or to protect persons, parks, or other property and would not pose a threat to health and safety in the area where such hunting shall take place. Such hunting may only take place at such time, place and manner as the Board may direct.

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

Sec. 11-2-2 Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited.

(a) **Concealed Weapons Prohibited.**

(1) ***Prohibition.*** No person shall, within the Village of Elk Mound, wear or in any manner carry under his/her clothes or conceal upon or about his/her person any deadly or dangerous weapon, starter pistol or toy designed to closely resemble an actual forearm, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.

(2) ***Dangerous Weapon Defined.*** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(b) **Weapons in Public Establishments.** No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and secured (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.

(c) **Specific Concealed Weapons Prohibited.**

(1) No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his/her person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the Village.

(2) Any weapon involved in an offense under this Subsection above, may be seized and may be forwarded, within forty-eight (48) hours of seizure, to the Crime Laboratory, Division of the Wisconsin Department of Justice for examination. After examination by the Crime Laboratory, the weapon shall be returned to law enforcement authorities. If the weapon is owned by a person convicted under this Subsection, it may be confiscated by law enforcement authorities. If it is owned by a person other than the person convicted, the trial judge may decide whether such weapon shall be returned to its rightful owner or confiscated by law enforcement authorities.

(d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**

(1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "sucbai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the Village of Elk Mound.

(2) For the purpose of this Section, the following definitions shall apply:

a. ***"Numchuk" or "Nunchaku."*** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.

b. *"Churkin."* A round throwing knife consisting of several sharp points protruding from a rounded disc.

c. *"Sucbai."* A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

(3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

(e) **Reckless Use of Weapons.**

(1) ***Acts Prohibited.***

a. No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.

b. No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he/she is under the influence of an intoxicant.

c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.

(2) ***Reckless Conduct Defined.*** "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

Sec. 11-2-3 Safe Use and Transportation of Firearms and Bows.

(a) **Definitions.** In this Section:

(1) ***Aircraft*** has the meaning given under Sec. 114.002(3), Wis. Stats.

(2) ***Encased*** means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.

(3) ***Firearm*** means a weapon that acts by force of gunpowder.

(4) ***Highway*** has the meaning given under Sec. 340.01(22), Wis. Stats.

(5) ***Motorboat*** has the meaning given under Sec. 30.50(6), Wis. Stats.

(6) ***Roadway*** has the meaning given under Sec. 340.01(54), Wis. Stats.

(7) ***Unloaded*** means any of the following:

a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.

b. In the case of a cap lock muzzle-loading firearm, having the cap removed.

c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.

(8) ***Vehicle*** has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.

(b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**

(1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the

firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

(2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

(3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.

(4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.

(5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-6.

(c) **Exceptions.**

(1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:

a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.

b. A member of the U.S. armed forces.

c. A member of the National Guard.

(2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.

(3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

Sec. 11-2-4 Sale and Discharge of Fireworks Restricted.

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Sec. 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

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

Sec. 11-2-5 Obstructing Streets and Sidewalks Prohibited.

(a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village of Elk Mound in such a manner as to:

(1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;

(2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or

(3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.

(b) **Obstructing Public Ways.**

(1) No person shall obstruct or interfere with by any means any vehicular, railroad or pedestrian traffic on any public walk, highway, street, alley, railroad track or public thoroughfare for the purpose of disrupting the orderly movement of such traffic or to impede intentionally or unintentionally the flow of the vehicular, train or pedestrian traffic on a public walk, highway, street, alley, railroad track or public thoroughfare or at any public building or premises, parking lot or structure.

(2) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets and sidewalks is a violation of this Section.

(c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) ***Loiter.*** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

(2) ***Nuisance.*** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Elk Mound.

(3) ***Obstruct.*** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.

(4) ***Sidewalk.*** Any sidewalk owned or maintained by the Village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

(d) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

Sec. 11-2-6 Loitering and Unlawful Assemblies Prohibited.

(a) **Public Property Loitering Prohibited.**

(1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.

(2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.

(4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

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

(1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.

(2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.

(4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

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

(1) No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall,

prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

(2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

(3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.

(4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this Subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

(d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**

(1) ***Underage Persons and Intoxicants.*** No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(2) ***Permitting Loitering Prohibited.*** No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(1) ***Loiter.*** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

(2) ***Nuisance.*** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Elk Mound.

(3) ***Unlawful Assemblies.*** An "unlawful assembly" is an assembly which consists of three (3) or more persons and which causes such a disturbance of public order that it is reasonable to believe that the assembly will cause injury to persons or damage to property unless it is immediately dispersed. An unlawful assembly includes an

assembly of persons who assemble for the purpose of blocking or obstructing the lawful use by any other person or persons of any private or public thoroughfares, property or of any positions of access or exit to or from any private or public building, or dwelling place, or any portion thereof and which assembly does in fact so block or obstruct the lawful use by any other person, or persons of such private or public thoroughfares, property or any position of access or exit to or from any private or public building, or dwelling place, or any portion thereof.

(f) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the law enforcement officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:

(1) ***Public Place*** is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.

(2) ***Known Prostitute or Panderer*** means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

(g) **Unlawful Assemblies.** Whoever intentionally fails or refuses to withdraw from an unlawful assembly which the person knows has been ordered to disperse is guilty of a violation of this Section.

Sec. 11-2-7 Loud and Unnecessary Noise Prohibited.

(a) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or

amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.

(b) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

(1) ***Horns, signaling devices.*** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(2) ***Radios, phonographs, similar devices.*** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the properly line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.

(3) ***Loudspeakers, amplifiers for advertising.*** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(4) ***Animals, birds.*** The keeping of any animal or bird which causes frequent or long continued unnecessary noise.

(5) ***Exhausts.*** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffle or other device which will effectively prevent loud or explosive noises therefrom.

(6) ***Construction or repair of buildings.*** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Chief of Police shall have the authority, upon determining that the loss of inconvenience which would

result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.

(7) ***Schools, courts, churches, hospitals.*** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.

(8) ***Exceptions.*** The provisions of this Section shall not apply to:

a. Any vehicle of the Village while engaged in necessary public business.

b. Excavations or repairs of streets or other public construction by or on behalf of the Village, county, or state at night when public welfare and convenience renders it impossible to perform such work during the day.

c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.

(c) **Permits for Amplifying Devices.**

(1) ***Permit Required.*** The use of loudspeakers or amplifying devices on the streets or in the parks of the Village of Elk Mound is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from Chief of Police.

(2) ***Grounds or Reasons for Denial or Allowance.*** The Chief of Police shall have the authority to revoke such permit when he/she believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.

(3) ***Time Restrictions.*** The Chief of Police shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

Sec. 11-2-8 Disorderly Conduct.

(a) **Disorderly Conduct Prohibited.** No person within the Village of Elk Mound shall:

(1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends

to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person;

(2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation;

(3) With intent to annoy another, make a telephone call, whether or not conversation ensues;

(4) Indecently expose his or her person;

(5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.

(b) **Violent and Abusive Behavior; Non-Verbal Gestures.** No person in any public or private place may engage in any violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person. Such prohibited conduct also includes non-verbal gestures, signals or gang signs if said conduct tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person.

(c) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Village, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.

(d) **Disturbance of Meetings.** No person may disrupt or disturb any congregation, audience, public meeting or lawful assembly of persons of any kind, or in concert with others disturb or disrupt such meeting.

Sec. 11-2-9 Unauthorized Presence on School Property.

(a) **Unauthorized Presence.**

(1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him/her from attending any school located within the Village or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.

(2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.

(3) "Authorized person" shall include:

a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;

b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;

c. Any person utilizing a designated area for attending an athletic or other organized school event.

(b) **Disorderly Conduct on Public School Property.**

(1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.

(3) All entrances to the school buildings referred to in Subsection (a) shall be posted by the School Board with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."

(4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a Village summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.

(c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Elk Mound or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.

(d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.

(e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

(1) ***Loiter.*** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

(2) ***Nuisance.*** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Elk Mound.

Sec. 11-2-10 Failure to Obey Lawful Order; Resisting an Officer.

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

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

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

(a) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I and II under Chapter 961, Wis. Stats., which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his/her professional practice, or except as otherwise authorized by this Code of Ordinances.

(b) **Possession of Marijuana.**

(1) No person shall possess twenty-five (25) grams or less of marijuana (tetrahydrocannabinols, commonly known as "THC", in any form including tetrahydrocannabinols contained in marijuana, obtained from marijuana or chemically synthesized), as defined in Sec. 961.01, Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.

(2) For purposes of this Section, "practitioner" means:

a. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

b. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

(3) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.

(c) **Toxic Inhalants.**

(1) ***Definitions.*** "Toxic inhalants" shall mean any glue, paint, gasoline, aerosol, adhesive cement, mucilage, plastic cement or any similar substance containing one or more of the following volatile substances:

a. Acetone;
b. Benzene;
c. Butyl alcohol;
d. Cyclohexanone;
e. Ethyl acetate;
f. Ethyl alcohol;
g. Ethylene dichloride;
h. Hexane;
i. Isopropl alcohol;
j. Methyl alcohol;
k. Methyl celosove;
l. Acetate;
m. Methyl ethyl ketone;
n. Methyl isobutyl ketone;
o. Pentachlorphenol;
p. Petroleum ether;
q. Trichlorethylene;
r. Tricresylphosphate;
s. Toluene;
t. Toluol; or
u. Any other chemical capable of producing intoxication when inhaled.

(2) ***Inhalation of Vapors or Fumes from Toxic Inhalants Prohibited.*** No person shall inhale or otherwise introduce into his respiratory tract any toxic vapors or fumes which may be released from any toxic inhalants with the intent of becoming intoxicated, elated, excited, stupefied, irrational, paralyzed, or of changing, distorting, or disturbing his/her eyesight, thinking process, judgment, balance or muscular coordination.

(3) ***Limitations on Sales, Transfer, and Possession of Toxic Inhalants.*** No person shall, for the purpose of violating or aiding another to violate any provision of this

Subsection, possess, buy, sell, transfer possession or receive possession of any toxic inhalants.

(d) **Additional Penalties.** In addition to the penalties in Section 1-1-6:

(1) If any adult violates Subsections (b) or (c), the court shall, in addition to any other penalties that may apply to the offense, suspend or revoke the person's operating privilege for not less than six (6) months nor more than five (5) years. The court shall immediately take possession of any suspended or revoked license and forward it to the Department of Transportation, together with the record of conviction and notice of suspension or revocation.

(2) If any person who is under eighteen (18) years of age violates Subsections (b) or (c), such person shall be subject to the same penalties set forth in Subsection (c)(1) or participation in a supervised work program or both.

(3) If any person who is under eighteen (18) years of age violates Subsections (b) or (c), the court shall, in addition to any other penalties that may apply to the offense, suspend or revoke the person's operating privilege for not less than six (6) months nor more than five (5) years. The court shall immediately take possession of any suspended or revoked license and forward it to the Department of Transportation, together with the record of conviction and notice of suspension or revocation.

State Law Reference: Chapter 961, Wis. Stats.

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

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

Sec. 11-2-13 Harassment.

(a) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:

(1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.

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

(b) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:

(1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;

(2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
(3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
(4) Makes repeated telephone calls, during which conversation ensures, solely to harass any person at the called number or numbers;
(5) Knowingly permits any telephone under his/her control to be used for any purpose prohibited by this Section;
(6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

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

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

Sec. 11-2-15 Gambling, Lotteries, Fraudulent Devices and Practices Prohibited.

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village, except as provided by state law. Any law enforcement officer of the Village may seize anything devised solely for unlawful gambling or found in actual use for gambling within the Village and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

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

(a) **Definitions.** For the purposes of this Section, the following definitions apply to the terms as used herein:
(1) ***Ambulance.*** An emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designated, constructed or equipped to transport patients.
(2) ***Ambulance Service Provided.*** A person engaged in the business of transporting sick, disabled or injured persons by ambulance to or from facilities or institutions providing health services.

(3) ***Ambulance Attendant.*** A person who is responsible for the administration of emergency care procedures, proper handling and transporting of the sick, disabled or injured persons, including but not limited to, ambulance attendants and ambulance drivers.

(4) ***Person.*** Any individual, firm, partnership, association, corporation, trust, foundation, company, any governmental agency other than the U.S. government, or any group of individuals, however named, concerned with the operation of an ambulance.

(5) ***Authorized Emergency Vehicle*** means any of the following:

a. Police vehicles, whether publicly or privately owned;

b. Conservation wardens' vehicles or foresters' trucks, whether publicly or privately owned;

c. Vehicles of a fire department or fire patrol;

d. Privately owned motor vehicles being used by deputy state fire marshals or by personnel of a full-time or part-time fire department or by members of a volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer;

e. Such emergency vehicles of municipal or county departments or public service corporations as are designated or authorized by the local authorities to be authorized emergency vehicles.

f. Such emergency vehicles of state departments as are designated or authorized by the heads of such departments to be authorized emergency vehicles;

g. Such ambulances, publicly owned, as are designated or authorized by local authorities to be authorized emergency vehicles;

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

(6) ***Emergency Medical Personnel.*** Any emergency medical personnel, ambulance attendant, peace officer or fire fighter, or other person operating or staffing an ambulance or an authorized emergency vehicle.

(7) ***Bonafide Emergency or Bonafide Request for Emergency Services.*** Those circumstances wherein the caller reasonably believes that person(s) and or property

may be in actual or potential danger of injury, and in the case of person(s), in danger of illness.

(b) **Prohibitions.** It is the intent of the Village of Elk Mound, in its adoption of this provision, to protect against the foregoing activities in a manner consistent with that provided by Sec. 941.37, Wis. Stats. The following acts are prohibited and perpetration thereof subjects the violator to penalty as provided by Section 1-1-6:

(1) Knowingly obstructing any emergency medical personnel in the performance of duties relating to an emergency or rescue;

(2) Intentionally interfering with any medical personnel in the performance of duties relating to an emergency or rescue, when it is reasonable that the interference may endanger another's safety;

(3) Knowingly making any telephone call to any emergency medical personnel, police agency or fire department for any purpose other than to report a bona fide emergency or to make a bona fide request for emergency services.

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

(a) **Definitions.** In this Section:

(1) ***Alcohol beverages*** has the meaning given in Sec. 125.02(1), Wis. Stats.

(2) ***Controlled substances*** has the meaning given in Sec. 961.01(4), Wis. Stats.

(3) ***Lodging establishment*** has the meaning given in Sec. 101.22(1m)(n), Wis. Stats.

(4) ***Underage person*** has the meaning given in Sec. 125.02(20m), Wis. Stats.

(b) **Improper Activities.** Any person who procures lodging in a lodging establishment, and permits or fails to take action to prevent any of the following activities from occurring in the lodging establishment, is subject to the penalties provided in Section 1-1-6.

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

(d) **Deposits.** An owner or employee of a lodging establishment may require a cash deposit or use of a credit card at the time of application for lodging.

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

(a) **Findings and Intent.**

(1) ***Findings.***

a. Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme

threat to the public health, welfare and safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims that are never reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

b. According to a 1997 report by the United States Department of Justice, sex offenders have high rates of recidivism which are much higher than recidivism rates for other types of violent crimes. Sex offenders are the least likely to be cured and the most likely to re-offend and prey on the most vulnerable members of the community.

c. While Federal and State Fair Housing Statutes prohibit unlawful discrimination, they do not extend the same protections to a sex offender (as herein defined) with respect to a place of residency (as herein defined) where a Safety Zone (as herein defined) has been established.

d. This Section is a regulatory measure aimed at protecting the health and safety of children in the Village of Elk Mound from risk that convicted sex offenders may reoffend. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, day care facilities and other places children frequent. The Village of Elk Mound finds and declares that in addition to schools and day care facilities, children congregate or play at public parks and other locations.

e. The Village Board of the Village of Elk Mound has been advised of the decision of the United States Court of Appeals for the 8th Circuit, in *Doe v. Miller*, 405 F.3d 700 (8th Cir. 2005), which provides in part at page 716 of that decision the following:

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

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

(2) ***Intent.*** It is the intent of this Section not to impose a criminal penalty but rather to serve the Village of Elk Mound's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village of Elk Mound 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.

(b) **Definitions.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

(1) ***Child.*** A person under the age of sixteen (16) for purposes of this Section.

(2) ***Designated Offender (Sex Offender).*** Any person who is required to register under Section 301.45, Wis. Stats., for any sexual offense against a child or any person who is required to register under Section 301.45, Wis. Stats., and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Section 301.46(2) and (2m), Wis. Stats. Included in this definition is a person who has been convicted of, or has been found delinquent of, or has been found not guilty by reason of disease or mental defect of a "sexually violent offense" and/or a "crime against children".

(3) ***Minor.*** A person under the age of seventeen (17).

(4) ***Permanent Residence.*** A place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

(5) ***Temporary Residence.*** A place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent address. A residence may be mobile or transitory.

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

(7) ***Sexually Violent Offense.*** Shall have the meaning as forth in Section 980.01(6), as amended from time to time.

(8) ***Safety Zones.*** Any real property that supports or upon which there exists any facility used for children, including, but not limited to:

a. A public park, parkway, park facility, conservancy area or similar area or facility.
b. A public swimming pool.
c. A public library.
d. A public recreational trail or path.
e. A public playground.
f. A school for children.
g. Athletic fields and facilities used by children.
h. A movie theater.
i. A licensed day care center.
j. A ski hill or sledding hill open to the public.
k. Any specialized school or place of instruction for children, including, but not limited to a gymnastics academy, dance academy or music school.
l. A public or private golf course or range.
m. Acquatic facilities open to the public.
n. A place of worship, church, synagogue, mosque, temple or other house of religious worship ("church").
o. Any facility for children (which means a public or private school, a group home, as defined in Section 48.02(7), Wis. Stats.; a residential care center for children and youth, as defined in Section 48.02(15d), Wis. Stats.; a shelter care facility, as defined in Section 48.02(17), Wis. Stats.; a foster home, as defined in Section 48.02(6), Wis. Stats.; a treatment foster home, as defined in Section 48.02(17q), Wis. Stats.; a day care center licensed under Section 48.65, Wis. Stats.; a day care program established under Section 120.13(14), Wis. Stats.; a day care provider certified under Section 48.651, Wis. Stats.; or a youth center, as defined in Section 961.01(22), Wis. Stats.

(9) ***Crimes Against Children.*** Shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or federal government, having like elements necessary for conviction, respectively:

940.225(1)	First Degree Sexual Assault
940.225(2)	Second Degree Sexual Assault
940.225(3)	Third Degree Sexual Assault
940.22(2)	Sexual Exploitation by Therapist

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

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

(1) ***Prohibited Location of Residence.*** It is unlawful for any designated offender to establish a permanent residence or temporary residence within One Thousand Five Hundred (1,500) feet of any Safety Zone property/use enumerated in Subsection (b)(8), or any other place designated by the Village of Elk Mound as a place where children are known to congregate.

(2) ***Prohibited Activity.***

a. ***Loitering.*** It is unlawful for any designated offender to loiter within One Thousand Five Hundred (1,500) feet of any Safety Zone property/use enumerated in Subsection (b)(8) or any other place designated by the Village of Elk Mound as a place where children are known to congregate.

b. ***Holiday Events/Parties.*** It is unlawful for any designated offender to participate in a holiday event involving children under eighteen (18) years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas, or wearing an Easter Bunny costume on or preceding Easter, or other similar activities. Holiday events in which the offender

is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this Subsection. "Participation" is to be defined as actively taking part in the event.

(3) ***Measurement of Distance.***

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

b. The Village Clerk-Treasurer shall maintain an official map showing prohibited locations as defined by this Section. The Village Clerk-Treasurer shall update the map at least annually to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones. The map is to be displayed or available in the Office of the Village Clerk-Treasurer.

(4) ***Violations; Penalties.*** A person who violates this Subsection shall be punished by forfeiture per Section 1-1-6. Each day a person maintains a residence in violation of this Section constitutes a separate violation. The Village of Elk Mound may also seek equitable relief.

(5) ***Exceptions.*** A designated offender residing within a prohibited area as described in Subsection (c)(1) does not commit a violation of this Section if any of the following apply:

a. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Section 340.45, Wis. Stats., before the original effective date of this Section.

b. The person is a minor or ward under guardianship and is not required to register under Sections 301.45 or 301.46, Wis. Stats.

c. The school, licensed day care center, park, trail, playground, place of worship, or any other place designated by the Village as a place where children are known to congregate within One Thousand Five Hundred (1,500) feet of the person's permanent residence was opened after the person established the permanent residence or temporary residence and reported and registered pursuant to Section 301.45, Wis. Stats.

d. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse, or children provided that such parent, grandparent, sibling, spouse or child established the residence at least ten (10) years before the designated offender established the residence at the location.

(d) **Property Owners Prohibited From Renting Real Property To Certain Sexual Predators and Sexual Offenders; Penalties.**

(1) ***Prohibition.*** It is unlawful to let or rent any place, structure, or part thereof, trailer, or other conveyance, with the knowledge that it will be used as a permanent residence

or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to this Section, if such place, structure, or part thereof, trailer, or other conveyance is located within a prohibited location zone described in Subsection (c)(1). A person letting or renting a place or structure shall be deemed to have such knowledge if, at least ten (10) days prior to letting or renting the place or structure, the sex offender's name appears on the Wisconsin Department of Correction's sex offender registry and the person letting or renting the place knew the sex offender would be residing at the subject place or structure.

(2) ***Violations; Penalties.*** A property owner's failure to comply with the provisions of this Subsection shall constitute a violation of this Section, and shall subject the property owner to the Code enforcement provisions in Subsection (c)(4) as provided in this Section. Each day a violation continues shall constitute a separate offense.

(e) **Safety Zones.**

(1) ***Presence Regulated.*** A sex offender shall not enter upon or be present upon or within a Safety Zone.

(2) ***Safety Zone Exceptions.*** A sex offender who enters upon or who is present upon or within a safety zone does not commit a violation of this Subsection if any of the following apply:

a. The property also supports a church, synagogue, mosque, temple or other house of religious worship, subject to all of the following conditions:

1. The sex offender's entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
2. The sex offender shall not participate in any religious education programs that include individuals under the age of eighteen (18).

b. The property also supports a use lawfully attended by a sex offender's natural or adopted children, which a child's use reasonably requires the attendance of the sex offender as the child's parent upon the property, subject to the following condition:

1. The sex offender's entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public.
2. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the sex offender.

c. The property also supports a polling location in a local, state or federal election, subject to all of the following conditions:

1. The sex offender is eligible to vote;
2. The property is the designated polling place for the sex offender; and
3. The sex offender enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is to any member of the electorate, and vacates the property immediately after voting.

d. The property also supports a school lawfully attended by a sex offender as a student under which circumstances the sex offender may enter upon the property supporting the school at which the sex offender is enrolled, for such purposes and at such times as are reasonably required for the educational purposes of the school.

e. The property also supports a court, government office or room for public governmental meetings, subject to all of the following conditions:

1. The sex offender is on the property only to transact business at the government office or place of business, other than a public library, or attend an official meeting of a governmental body; and
2. The sex offender leaves the property immediately upon completion of the business or meeting.

(3) ***Violations; Penalties.*** A person who violates this Subsection shall be punished by a forfeiture per Section 1-1-6. Each day a violation continues shall constitute a separate offense.

(f) **Injunctions and Other Penalties for Violations.** Neither the issuance of a citation nor the imposition of forfeiture hereunder shall preclude the Village of Elk Mound from seeking or obtaining any or all other legal and equitable remedies to prevent or remove a violation of this Chapter. If an offender establishes a residence in violation of Subsections (c) or (d) above, or enters or is present upon or within a Safety Zone in violation of Subsection (e) above, the Village Attorney may bring an action in the name of the Village of Elk Mound in circuit court to permanently enjoin any such violation as a public nuisance.

(g) **Appeals.** The above requirements may be waived or modified upon approval of the Village Board of the Village of Elk Mound through appeal by the affected party. Such appeal shall be made to the Village Clerk-Treasurer, who shall forward the request to the Village President and Village Board, which shall request and receive reports from law enforcement authorities serving the Village on such appeal. The Village President and Village Board shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation and determination, the Village President and Village Board shall forward its decision to the law enforcement authorities serving the Village of Elk Mound for their information and action. A written copy of the decision shall be provided to the affected party.