

City of Waukesha, Wisconsin
Ordinance No. _____-17

**An Ordinance Amending Section 11.01 of the Waukesha Municipal Code,
Regarding Public Offenses**

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Waukesha Municipal Code of Ordinances Section 11.01 is hereby amended to read as follows:

CHAPTER 11
Orderly Conduct

11.01 Public Offenses (Rep. & recr. #5-83)

- (1) **Definitions.** For the purposes of this section, the definitions of words and phrases contained in Chs. 161, 939 to 947 and §990.01, Wis. Stats., together with any subsequent amendments to those sections enacted by the Legislature, are hereby adopted and by reference made a part hereof with the same force and effect as if fully set forth herein.
- (2) **Interpretation.** In the following enumerated sections and subsections of the Wisconsin Statutes:
 - (a) Whenever the word “crime” is used, it shall be taken to mean “offense”.
 - (b) Whenever the phrase “criminal intent” is used, it shall be taken to mean “intent”.
- (3) **State Laws Adopted.** The statutory provisions, together with any subsequent amendments to these sections enacted by the Legislature, describing, defining and prohibiting conduct in the following enumerated sections and subsections of the Wisconsin Statutes and cross-references contained therein to other sections and subsections of the Wisconsin Statutes, exclusive of any provision thereof relating to the penalties to be imposed or the punishment for violation of such statutes, are hereby adopted and by reference made a part of this section with the same force and effect as if fully set forth herein. Any acts required to be performed or prohibited by any statute incorporated by reference also is to be required or prohibited by this section.
- (4) **General Offenses.** (Am. MSC ‘86) (Am. #13-10) The following specifically enumerated statutory provisions following the prefix “11,” are hereby prohibited in the City and are incorporated hereby by reference, just as though fully set forth herein, but the penalty for violation under this section shall be limited as hereinafter set forth:

| <u>Statute References</u> | <u>Offense</u> |
|---------------------------|---|
| 11.941.20(1)..... | Reckless Use of Weapon |
| 11.941.22 | Deleted #15-93 |
| 11.941.23 | Carrying a Concealed Weapon |
| 11.941.24 | Deleted #3-16 |
| 11.941.35 | Emergency Telephone Calls |
| 11.943.01 | Damage to Property |
| 11.943.11 | Entry Into Locked Vehicle |
| 11.943.125 | Entry Into Locked Coin Box |
| 11.943.13 | Criminal Trespass to Land |
| 11.943.14 | Criminal Trespass to Dwelling |
| 11.943.20 | Theft (Value Less Than \$500) |
| 11.943.21 | Fraud on Hotel or Restaurant Keeper (Value Less Than \$500) |
| 11.943.24 | Issue of Worthless Check (Value Less Than \$500) |
| 11.943.50 | Retail Theft (Value Less than \$500) |
| 11.944.20 | Lewd and Lascivious Behavior |
| 11.945.01 | Definitions Relating to Gambling |
| 11.945.02 | Gambling |
| 11.946.40 | Refusing to Aid an Officer |
| 11.946.41 | Resisting or Obstructing an Officer |
| 11.947.01 | Disorderly Conduct |
| 11.947.012 | Unlawful Use of Telephone |
| 11.947.013 | Harassment |

(5) **Possession of Controlled Substance.** (Am. #69-01) No person shall possess a controlled substance which is not 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 professional practice, except as otherwise authorized by Ch. 961, Wis. Stats.

(6) **Solicitation.** Whoever, with intent that an offense be committed, advises another to commit that offense under circumstances which indicate unequivocally that he has such intent may be subject to a forfeiture not to exceed the maximum fine provided for the completed offense.

(7) **Conspiracy.** Whoever, with intent that an offense under this section be committed, agrees or combines with another for the purpose of committing that offense, if one or more parties to the conspiracy does an act to effect its object, may be subject to a forfeiture not to exceed the maximum fine provided for the completed offense.

(8) **Attempt.**

(a) Whoever attempts to commit an offense under this section may be subject to a forfeiture not to exceed ½ the maximum penalty for the completed offense.

(b) An attempt to commit an offense requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such offense and that he does acts towards the commission of the offense which demonstrate, under all the circumstances, that he forms that intent and would commit the offense except for the intervention of another person or some other extraneous factor.

(9) **Possession of a Dangerous Weapon by a Child.**

(a) In this section, “dangerous weapon” means any firearm, loaded or unloaded; any electric weapon, as defined in Wis. Stats. § 941.295(1c)(a); 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 nunchaku or any similar weapon consisting of 2 sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather; a cestus or similar material weighted with metal or other substance and worn on the hand; a shuriken or any similar pointed star-like object intended to injure a person when thrown; or a manrikigusari or similar length of chain having weighted ends.

(b) No person under 17 years of age shall possess or go armed with a dangerous weapon.

(c) A person under 17 years of age who has violated this subsection is subject to the provisions of Ch. 938, Wis. Stats. unless jurisdiction is waived under Wis. Stats. § 938.18 or the person is subject to the jurisdiction of a court of criminal jurisdiction under Wis. Stat. § 938.183.

(10) **Penalties.** (Am. #5-11)

(a) The penalty for violation of subs. (4) and (5) is limited as herein set forth. (Am. MSC ‘86)

| <u>Statute References</u> | <u>Offense</u> | <u>Penalty</u> |
|---------------------------|------------------------------|--------------------|
| 11.941.20(1) | Reckless use of Weapon | ≥ \$50 and ≤ \$500 |

| | | |
|------------|--|--------------------|
| 11.941.22 | Deleted #15-93 | |
| 11.941.23 | Carrying a Concealed Weapon | ≥ \$50 and ≤ \$500 |
| 11.941.24 | Deleted #3-16 | |
| 11.941.35 | Emergency Telephone Calls | ≥ \$50 and ≤ \$500 |
| 11.943.01 | Damage to Property | ≥ \$50 and ≤ \$500 |
| 11.943.11 | Entry Into Locked Vehicle..... | ≥ \$50 and ≤ \$500 |
| 11.943.125 | Entry Into Locked Coin Box..... | ≥ \$50 and ≤ \$500 |
| 11.943.13 | Criminal Trespass to Land..... | ≥ \$50 and ≤ \$500 |
| 11.943.14 | Criminal Trespass to Dwelling | ≥ \$50 and ≤ \$500 |
| 11.943.20 | Theft (Value Less Than \$500)..... | ≥ \$50 and ≤ \$500 |
| 11.943.21 | Fraud on Hotel or Restaurant Keeper (Value Less Than \$500)..... | ≥ \$50 and ≤ \$500 |
| 11.943.24 | Issue of Worthless Check (Value Less Than \$500)..... | ≥ \$50 and ≤ \$500 |
| 11.943.50 | Retail Theft (Value Less Than \$500)..... | ≥ \$50 and ≤ \$500 |
| 11.944.20 | Lewd and Lascivious Behavior..... | ≥ \$50 and ≤ \$500 |
| 11.945.02 | Gambling | ≥ \$50 and ≤ \$500 |
| 11.946.40 | Refusing to Aid An Officer | ≥ \$50 and ≤ \$500 |
| 11.946.41 | Resisting or Obstructing An Officer..... | ≥ \$50 and ≤ \$500 |
| 11.947.01 | Disorderly Conduct..... | ≥ \$50 and ≤ \$500 |
| 11.947.012 | Unlawful Use of Telephone..... | ≥ \$50 and ≤ \$500 |
| 11.947.013 | Harassment | ≥ \$50 and ≤ \$500 |
| §11.01(5) | Possession of Controlled Substance..... | ≥ \$50 and ≤ \$500 |

(b) Any person between the ages of 12 and 17, inclusive, violating the provisions of subs. (4) and (5), shall be subject to a forfeiture of not less than \$50 for each offense plus costs, nor more than the maximum forfeiture which may be imposed on an adult for committing the same violation or, such person shall be referred to the proper authorities as provided in Ch. 48, Wis. Stats. or Ch. 938, Wis. Stats.

(11) State Administrative Code Sections Adopted. (Cr. #12-04) (Am. #3-14) The Wisconsin Administrative Code TRANS Chapter 305 and 325, together with any subsequent amendments to said Chapter, which describe, define and prohibit or require the performance of certain conduct are hereby adopted and by reference made a part of this section with the same force and effect as if fully set forth herein.

Section 2. All ordinances, or portions of ordinances, inconsistent with this ordinance are hereby repealed.

Section 3. This Ordinance shall be effective immediately upon its publication.

Passed the _____ day of June, 2018.

Shawn N. Reilly, Mayor

Attest: Gina L. Kozlik, City Clerk