

CHAPTER 6

PUBLIC PEACE AND GOOD ORDER

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6.01 STATE OFFENSES ADOPTED. (Am. 02-6)

Except as otherwise specifically provided in this Code, the current and future statutory provisions in Chapters 939 through 948, Sections 254.92, 86.06, 86.192, 134.66, 961.41(3g), 961.472, and 961.571 through 961.577, Wisconsin Statutes, describing and defining regulation against the peace and good order of the State, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a term of imprisonment, are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this Code. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of peace and good order of the State.

6.02 WEAPONS DISCHARGE/SAFETY

(1) DISCHARGE WITHIN THE BOUNDARIES OF THE CITY. No rifle, pistol, machine gun, cannon, or like weapon or instrument (except a shotgun or muzzle loader) designed and used to propel an individual bullet, ball, or shell more than 50 yards, may be discharged within the boundaries of the City of Pewaukee, except that such weapons or instruments may be discharged within the confines of a gun club or target range that has been authorized and properly zoned by the City and is properly supervised by the owners or operators of such facility.

(2) CONDITIONS OF DISCHARGE WITHIN THE BOUNDARIES OF THE CITY. A shotgun, muzzle loader, bow or crossbow or other like weapon or instrument may be discharged within the boundaries of the City of Pewaukee, but only under the following conditions and regulations:

(a) Shotguns, muzzle loaders or like weapons or instruments designed and used to propel a single slug, multiple pellets or "shot" may only be discharged in the City on lands zoned "Agriculture", "Lowland Conservancy", "Upland Conservancy" or "Floodplain". No such weapons or instruments shall be discharged on or onto lands less than 200 yards from the boundary of an adjacent platted subdivision. In addition, no such weapons or instruments shall be discharged within 100 yards from a habitable building on any other adjacent property, unless the owner of such adjacent property or habitable building has given written permission to be closer. In no case shall such weapons or instruments be discharged in a direction that could result in the projectile landing on or flying over any adjacent properties unless the owner(s) of such adjacent properties have given written permission to do so.

(b) Bows, crossbows or other like weapon or instruments designed and used to propel an arrow, dart or other similar missile may only be discharged in the City on lands zoned "Agriculture", "Lowland Conservancy", "Upland Conservancy" or "Floodplain". No such weapons or instruments shall be discharged on or onto lands less than 100 yards from the boundary of an adjacent platted subdivision. In addition, no such weapons or instruments shall be discharged within 100 yards from a habitable building on any other adjacent property, unless the owner of such adjacent property or habitable building has given written permission to be closer. In no case shall such weapons or instruments be discharged in a direction that could result in the projectile landing on or flying over any adjacent properties unless the owner(s) of such adjacent properties have given written permission to do so.

(c) Air rifles, pellet guns, or like instruments or toys designed and used to propel a projectile by use of a spring mechanism, compressed air or chemical propellant may only be discharged in direction away from habitable buildings, streets/highway, parks and other areas or uses where persons may congregate. In no case shall such instruments be discharged less than 25 yards from the boundary of any adjacent property unless the owner of such adjacent property has given written permission to be closer than 25 yards.

(3) EXCEPTIONS. The following exceptions apply to these regulations:

(a) Law enforcement officers of the City, county, state and federal governments may carry and discharge firearms as a part of their law enforcement responsibilities.

(b) Guns, bows, crossbows and other weapons or instruments as described herein may be

discharged with the confines of a gun or bow club or target range that has been authorized and properly zoned by the City and is properly supervised by the owners or operators of such facility.

(c) When used pursuant to the terms of an Urban Deer Management program contract entered into by the Common Council. (Cr. 13-25)

(4) STATE HUNTING AND FIREARMS REGULATIONS. State hunting and firearms regulations shall apply where they are more restrictive than the foregoing regulations.

6.03 EQUAL OPPORTUNITIES IN HOUSING.

(1) POLICY. It is the policy of the City of Pewaukee to provide, within constitutional limitations, for fair housing throughout the City.

(2) INTENT.

(a) It is the intent of this Section to render unlawful discrimination in housing where the sale, rental or lease of the housing constitutes a business. It is the duty of the City to assist in the orderly prevention or removal of all discrimination through the powers created under the Wisconsin Statutes. This Section shall be deemed an exercise of the police powers of the City for the protection of the welfare, health, peace, dignity and human rights of the people of the City of Pewaukee.

(b) Nothing in this Section shall be deemed to prohibit an owner, or his agent, from requiring that any person who seeks to buy, rent, or lease housing to supply information concerning his family, marital, financial and business status but not concerning race, color, creed or national origin.

(3) DEFINITION. In this Section, unless the context requires otherwise:

(a) Housing means any improved property, but does not include:

1. Any single family building occupied by the owner as his residence, and any single family building occupied by the owner in which single rooms are rented out for occupancy by three (3) or less individuals not members of the owner's family.

2. Any two-family owner-occupied dwelling, all in one structure, in which one of the dwelling units is rented out for occupancy.

(b) Discriminate and discrimination means to segregate, separate, exclude or treat any person unequally only because of race, color, religion, national origin or ancestry. It is intended that the factors set forth herein shall be the sole basis for prohibiting discrimination.

(4) DISCRIMINATION PROHIBITED.

(a) It shall be a prohibited discriminatory act for any person to:

1. Print, broadcast or publish, or cause to be printed, broadcast or published, any notice or advertisement relating to the transfer, sale, rental, or lease of any housing which expresses limitations, specifications or discrimination as to race, creed, color, national origin or ancestry.

2. Refuse to sell, lease, sub-lease, rent or in any other manner deny, withhold or impair the transfer of title, leasehold or any other interest in any part of any housing or housing accommodation, when such refusal is based to any degree on a consideration of race, color, religion, ancestry or national origin of the person refused.

3. Refuse to lend money or security, guarantee any loan, accept any mortgage or in any other manner make available any other funds or resources for the construction, acquisition, purchase, rehabilitation, repair or maintenance of any housing or housing accommodation, when such refusal is based to any degree on a consideration of the race, color, religion, ancestry or national origin of the person refused.

4. Refuse to furnish any facilities or services for any housing or housing accommodation, whether ordinarily provided pursuant to legal duty or local custom, when such refusal is based to any degree on a consideration of the race, color, religion, ancestry or national origin of the person refused.

(b) It shall be unlawful for any person to do or refuse to do any act which to any degree effects the purpose of any activity prohibited by this Section.

(5) EXEMPTION. Nothing in this Section shall bar any religious or denominational institution or organization, or any charitable or educational organization which is operated, supervised, or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination or from making such selection as is reasonably calculated by such organization to promote the religious principles for which it is established or maintained.

(6) TESTING PROHIBITED. It is unlawful for any person not having any bona fide intention to avail himself of any rights under this Section to solicit offers to buy or lease from property owners or lessees or their agents for the sole purpose of securing evidence of a discriminatory practice. Any person found to have violated this Section shall be subject to the penalties prescribed hereinafter.

(7) FAIR HOUSING COMMISSION.

(a) There is hereby created a City of Pewaukee Fair Housing Commission to consist of five (5) members appointed by the City Chairman confirmed by the Common Council. Three (3) members shall be appointed in even-numbered years. Two (2) members shall be appointed in odd-numbered years. Thereafter, all appointments shall be for a three (3) year term. A member shall continue to act until his successor has been appointed and qualified. A member may be removed at any time, at will, by a 2/3 vote of the Common Council. In the event of a vacancy, an appointment shall be made for the unexpired term. If no Fair Housing commission is appointed the Common Council shall serve as the same. (Rep. & Recr. 09-21)

(b) The Commission shall elect one of its members as Chairperson, one of its members as Vice Chairperson and one of its members a Secretary who shall serve for one (1) year terms. It shall be the Chairperson's duty, and in his absence the Vice Chairperson's duty, to conduct the meetings of the Commission. The Secretary shall keep such minutes, records, and produce such correspondence as may be reasonably required by the Commission. Except for the expense incurred by the Secretary in the performance of his duties, the Commission shall incur no expense as the obligation of the City without prior approval of the City Common Council. All members of the Commission shall serve without compensation.

(c) The Fair Housing Commission shall receive and process complaints or violations of this Section. Complaints must be verified, and must constitute a written statement of the essential facts constituting the discrimination charged. Such complaints must be made within ninety (90) days after the occurrence of the incident upon which they are based.

(d) If the Commission determines that there is clear, satisfactory, and convincing evidence of a violation of this Section, it shall immediately, by conference, conciliation, and persuasion, endeavor to obtain compliance with this Section. If compliance is obtained, or where the Commission determines that the required evidence of violation does not exist, no public disclosure shall be made of the parties involved, or the incident involved.

(e) Where the Commission concludes that a violation of this Section has occurred, and compliance has not been obtained, the Commission shall refer such violation to the City Attorney, who may cause an action to be brought in Circuit Court for forfeiture for said violation. The referral to the Attorney must be signed by a member of the Commission when authorized by a majority vote of the Commission. In any action brought for a violation of this Section, a jury trial shall be permitted and the burden of proof shall be upon the complainant.

(f) If the Commission concludes that the complaint is not only a violation of this Section, but also a violation of a state law or a federal law now or hereafter adopted, the Commission by a majority

vote may, instead of proceeding under this Section, refer the matter to the appropriate state or federal officer or agency. Thereafter, if prosecuted at the State or Federal level, no further action shall be taken under this Section, whether by the Commission or the complainant.

(g) The City Attorney shall represent the Commission in all actions brought in Court for alleged violation of this Section.

(8) ACTION BY COMPLAINANT. A complainant under this Section may bring an action in Circuit Court for forfeiture for violation of this Section under the following conditions:

(a) Action must be brought within ten (10) days after the Commission's decision is mailed to him.

(b) The complainant disagrees with the determination of the Commission that there has been no violation, or that it has been eliminated or remedied.

(c) The Commission has not acted within sixty (60) days after the filing of the complaint.

(d) If the Commission has made a decision, said decision shall be competent evidence in the Circuit Court action, or any subsequent Court action.

(9) ACTION FOR FORFEITURE. No one may bring an action for forfeiture based upon an alleged violation of this Section, except members of the Commission acting pursuant to this Section, or a complainant acting under provisions of Section 6.03, Subsection 8.

6.035 SEXUAL OFFENDER RESIDENCY RESTRICTIONS; CHILD SAFETY ZONES. (Cr. 15-11, Rep. & Rec. 16-08, Rep. & Rec. 18-01)

(1) PURPOSE & INTENT

This chapter is a regulatory measure aimed at protecting the health and safety of children in Pewaukee from the risk that convicted sex offenders may reoffend in locations close to their Residences. The Common Council has closely considered this question and had made numerous findings and expressions of intent within the preamble to the Ordinance which adopts this Code Section which are incorporated herein by reference. The City of Pewaukee finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be rearrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to protections afforded by state law near schools, day-care centers and other places children frequent. The City finds and declares that in addition to schools and day-care centers, children congregate or play at public parks.

(2) DEFINITIONS

As used in this chapter and unless the context otherwise requires:

(a) (Repealed 18-01)

(b) **Offender** shall mean: (Rep & Rec 18-01)

1. Any person who is required to register under §301.45, Wis. Stats., for any offense against a child or any person who is required to register under §301.45, Wis. Stats., and who is subject to the Special Bulletin Notification process set forth in §301.46(2) and (2m), Wis. Stats.;
2. Any person subject to the sex crimes commitment provisions of §975.06, Wis. Stats.;
3. Any person found not guilty by reason of disease or mental defect placed on lifetime supervision under §971.17(lj), Wis. Stats.

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

(d) **Sexually Violent Offense** shall have the meaning as set forth in § 980.01(6), Wis. Stats.,

as amended from time to time.

- (e) **Temporary Residence** means residence or premise meeting either of the following criteria:
1. A place where the person sleeps, abides, lodges, or resides for a period of 14 or more days in an aggregate during any calendar year and which is not that person's permanent residence as defined in (2) (c) above; or
 2. A place where the person routinely sleeps, abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not that person's permanent residence as defined in (2) (c) above.

(3) RESIDENCY RESTRICTIONS

- (a) An offender shall not reside within 1,500 feet of the real property comprising any of the following:
1. Any facility for children [which means a public or private school or a group home, as defined in § 48.02(7), Wis. Stats.; a residential care center for children and youth, as defined in § 48.02(15d), Wis. Stats.; a shelter care facility, as defined in § 48.02(17), Wis. Stats.; a foster home, as defined in § 48.02(6), Wis. Stats.; a treatment foster home, as defined in § 48.02(17q), Wis. Stats.; a day-care center licensed under § 48.65, Wis. Stats.; a day-care program established under § 120.13(14), Stats.; a day care provider certified under § 48.651, Wis. Stats.; or a youth center, as defined in § 961.01(22), Wis. Stats.); and/or
 2. A public park, parkway, parkland, park facility;
 3. A public swimming pool;
 4. A public library;
 5. A recreational trail;
 6. A public playground;
 7. A school for children;
 8. Athletic fields used by children;
 9. A movie theater;
 10. A day-care center;
 11. Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, or music school;
 12. A public or private golf course or range; and
 13. Aquatic facilities open to the public.
- (b) The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above-enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time to time, are on file in the office of the City Clerk for public inspection.

(c) Exceptions

A person residing within 1,500 feet of the real property comprising any of the uses enumerated in above, does not commit a violation of this chapter if any of the following apply:

1. The offender is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
2. The offender has established a residence prior to the effective date of this chapter on October 19, 2015, which is within 1,500 feet of any of the uses enumerated above, or such enumerated use is newly established after such effective date and it is located within such 1,500 feet of a residence of a person which was established prior to the effective date of this chapter.
3. The offender is a minor or ward under guardianship.

(4) ORIGINAL DOMICILE RESTRICTION; AND APPEAL (Rep & Rec 18-01)
Original Domicile Restrictions; and Appeal.

(a) In addition to and notwithstanding the foregoing, but subject to the residency restrictions above, no offender and no individual who has been convicted of a sexually violent offense shall be permitted to reside in the City of Pewaukee, unless such person was domiciled in the City of Pewaukee at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense. "Domicile" shall mean an individual's fixed and permanent home where the individual intends to remain permanently and indefinitely and to which whenever absent the individual intends to return, except that no individual may have more than one domicile at any time. Domicile is not a residence for any special or temporary purpose. An offender does not violate this Subsection if the Sex Offender Residence Board has granted an exemption.

(b) PETITION FOR EXEMPTION.

1. An offender may seek an exemption from Subsection (4)(a) by petitioning to the Sex Offender Residence Board ("Residence Board").
2. The Residence Board shall consist of three citizens residing in the City, one from each Aldermanic district. Members shall be selected by the Mayor subject to the confirmation of the City of Pewaukee Common Council. Members shall serve for a term of five (5) years and shall serve no more than two (2) consecutive terms. The terms for the initial members of the Residence Board shall be staggered with one member serving one (1) year, a second member serving three (3) years and the third member serving five (5) years.
3. The Residence Board shall approve an official petition form. The offender seeking an exemption must complete the petition and submit it to the City Clerk who shall forward it to the Residence Board. The Residence Board shall hold a hearing on each petition, during which the Residence Board may review any pertinent information and accept oral or written statements from any person. The Residence Board shall base its decision on factors related to the City's interest in promoting, protecting and improving the health, safety and welfare of the community. Applicable factors for the Residence Board's consideration shall include, but are not limited to:
 - a. Nature of the offense that resulted in offender status
 - b. Date of offense
 - c. Age at time of offense
 - d. Recommendation of probation or parole officer
 - e. Recommendation of Police Department
 - f. Recommendation of any treating practitioner
 - g. Counseling, treatment and rehabilitation status of offender
 - h. Remorse of offender
 - i. Duration of time since offender's incarceration
 - j. Support network of offender
 - k. Relationship of offender and victim(s)
 - l. Presence or use of force in offense(s)
 - m. Adherence to terms of probation or parole
 - n. Proposals for safety assurances of offender
 - o. Conditions to be placed on any exception from the requirements of this Ordinance

The Residence Board shall decide by majority vote whether to grant or deny an exemption. An exemption may be unconditional or limited to a certain address or time, or subject to other reasonable conditions. The Residence Board's decision shall be final for purposes of any appeal. A written copy of the decision shall be provided to the offender and the Police Services Department for the City of Pewaukee.

(5) CHILD SAFETY ZONES

(a) No offender shall enter or be present upon any real property upon which there exists any

facility used for or which supports a use of:

1. A public park, parkway, parkland, park facility;
2. A public swimming pool;
3. A public library;
4. A recreational trail;
5. A public playground;
6. A school for children;
7. Athletic fields used by children;
8. A movie theater;
9. A day-care center;
10. Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy, or music school;
11. Any facility for children;
12. A public or private golf course or range; and
13. Aquatic facilities open to the public; and
14. Any facility for children [which means a public or private school or a group home, as defined in § 48.02(7), Wis. Stats.; a residential care center for children and youth, as defined in § 48.02(15d), Wis. Stats.; a shelter care facility, as defined in § 48.02(17), Wis. Stats.; a foster home, as defined in § 48.02(6), Wis. Stats.; a treatment foster home, as defined in § 48.02(17q), Wis. Stats.; a day-care center licensed under § 48.65, Wis. Stats.; a day-care program established under § 120.13(14), Stats.; a day care provider certified under § 48.651, Wis. Stats.; or a youth center, as defined in § 961.01(22), Wis. Stats.].

(b) A map depicting the locations of the real property supporting the above-enumerated uses, as amended from time to time, is on file in the office of the City Clerk for public inspection.

(c) Child Safety Zone Exceptions

An offender does not commit a violation of the Child Safety Zone as stated above and the enumerated uses may allow such person on the property supporting such use if any of the following apply:

1. The property supporting an enumerated use also supports a church, synagogue, mosque, temple or other house of religious worship (collectively “church”), subject to the following conditions:
 - a. Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
 - b. Written advance notice is made from the person to an individual in charge of the church, and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
 - c. The offender shall not participate in any religious education programs which include individuals under the age of 18, unless other adults who are not offenders are also present.
2. The property supporting an enumerated use also supports a use lawfully attended by a person’s natural or adopted child(ren), which child’s use reasonably requires the attendance of the person as the child’s parent upon the property, subject to the following conditions:
 - a. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
 - b. 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 person.
3. The property supporting an enumerated use also supports a polling location in a local, state or federal election, subject to the following conditions:

- a. The person is eligible to vote;
 - b. The designated polling place for the person is an enumerated use; and
4. The person enters the polling place property and proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate, and the person vacates the property immediately after voting.
 5. The property supporting an enumerated use also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.

(6) VIOLATIONS AND PENALTIES

- (a) Forfeitures. Any person found guilty of violating this section shall be subject to a forfeiture as provided in Section 25 of the City of Pewaukee Municipal Code.

(7) EXCEPTION FOR PLACEMENTS UNDER CHAPTER 980 OF THE WISCONSIN STATUTES.(Created 18-01)

To the extent required by Section 980.135 of the Wisconsin Statutes, and notwithstanding the foregoing provisions of this chapter, the City of Pewaukee hereby exempts and may not enforce any portion thereof that restricts or prohibits an offender from residing at a certain location or that restricts or prohibits a person from providing housing to an offender against an individual who is released under Wisconsin Statutes Section 980.08, or against a person who provides housing to such individual, so long as the individual is subject to supervised release under Chapter 980 of the Wisconsin Statutes, the individual is residing where he or she is ordered to reside under Section 980.08 of the Wisconsin Statutes, and the individual is in compliance with all court orders issued under Chapter 980 of the Wisconsin Statutes.

6.04 LOUD AND UNNECESSARY NOISE PROHIBITED.

(1) PROHIBITIONS. No person shall make or cause any noise that unreasonably annoys or disturbs another in the vicinity. (Rep. & Rec. 14-12)

(2) OPERATION OF MOTOR VEHICLES. It shall be a violation of this Section for a person to operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively or the motor to race excessively.

(3) UNNECESSARY MOTOR VEHICLE NOISE. (Cr. 01-1). No person shall make any unnecessary or annoying noises with a motor vehicle by the squealing of tires, the use of motor vehicle brakes which are in anyway activated or operated by the compression of the engine (i.e. Jacob's Engine Brake (™) or similar hydraulically operated device that converts a power-producing diesel engine into a power-absorbing retarding mechanism), the excessive acceleration of the engine, excessive horn blowing, emitting unnecessary and loud muffler noises or excessively loud audio equipment.

6.05 LOITERING PROHIBITED.

(1) LOITERING FOR IMPROPER PURPOSES. No person shall loiter or lounge in any public street or highway or alley or in any other public place or on any private premises without invitation from the owner or occupant thereof for any immoral, illegal or improper purpose or insult or disturb any person by any act, gesture or language.

(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 Community in such manner as to prevent, interfere with, or obstruct the ordinary free use of said public streets, sidewalks, streets, street crossings, and bridges or other public places by persons passing along and over the same after being requested to move on by any police officer or by any person in authority at such places.

(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 IN PUBLIC PLACES.** No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot, or other place of assembly or public use after being requested to move by any police officer, proprietor of the place of business, or by any person in authority at such place. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.

(6) **CURFEW.**

(a) **Hours.** No person under the age of 18 shall loiter, stand, walk, stroll, run, bike drive, congregate or play upon or within public rights-of-way, railroads, parks, public lands or buildings, or places of commercial, industrial or institutional use or activity after 11 PM and before 6 AM unless accompanied by a parent, legal guardian or other adult having custody, care, and control of such minor person; or unless the minor person not under such control is working or traveling between home and work or between home and supervised school, church, or civic function.

(b) **Responsibility Of Parents Or Guardians.** No parent, spouse, guardian or other person having care and custody of a person under the age of 18 years shall permit or, through the failure to properly control, allow such person to violate subsection a. above. Any parent or guardian in violation of this section shall be responsible for restitution for any damages caused by their ward or child in addition to any penalties imposed under Chapter 25 of this code.

(c) **Responsibility Of Owners Or Operators Of Places Of Business.** No person owning or operating any place of business shall permit or aid minor persons under the age of 18 to violate subsection a. above and may be held responsible and liable for actions by such minor person and prosecuted in accordance with this ordinance and with other laws in effect.

6.06 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 that the same cannot be removed by small children.

6.07 ABANDONED OR UNATTENDED ICE BOXES, ETC. PROHIBITED

No person shall leave or permit to remain outside of any dwelling, building or other restructure, 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 ice box, 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 said door or lid, snap lock or other locking device from said ice box, 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.

6.08 LITTERING PROHIBITED

(1) **PROHIBITIONS.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or right of ways of the City of Pewaukee or upon any private

property or upon the surface of any body of water within the City of Pewaukee. Further any matter that is foreign to the said areas is considered litter.

(2) **DEFINITION OF LITTER.** Litter is defined as any materials that are not commonly found upon the property on which they are deposited. Examples of litter regulated under this chapter are but are not limited by this list: Garbage, refrigerators, stoves, and other household appliances, furniture, rags, rubbish, brush, stumps, logs, leaves, automobile parts. or bodies, carcasses, parts of carcasses, kitchen refuse, human refuse, papers, newspapers, magazines, cardboard, and any other materials of like nature and substance.

(3) **ANIMAL LITTER PROHIBITED.** (Created 05-19)

(a) The owner or person in charge of any dog or other animal shall not permit solid fecal matter of such animal to be deposited on any street, alley or other public property or on any private property not owned by the animal owner, unless such matter is immediately removed therefrom by such owner or person in charge and properly disposed. This section shall not apply to a person who is visually or physically handicapped.

(b) No owner or keeper of any animal shall appear with such animal on any sidewalk, street, park or other public area or on any private property neither owned nor occupied by said person without a shovel, scoop, bag or other item for the removal of fecal matter to remove any feces left by the animal.

6.09 SNOWMOBILES

(1) **STATE SNOWMOBILE LAWS ADOPTED.** Except as otherwise specifically provided in this Code, the current and future statutory provisions describing and defining regulations with respect to snowmobiles in Chapter 350 of the Wisconsin Statutes, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a term of imprisonment are hereby adopted by reference and made part of this Code as if fully set forth herein. Acts required to be performed or prohibited by such current or future statutes are required or prohibited by this Code. Any future amendments, revisions, or modifications of the current or future Statutes incorporated herein are intended to be made part of this Code in order to secure uniform Statewide regulation of peace and good order of the State.

(2) **OPERATION ON ROADS IN RESIDENTIAL AREAS PROHIBITED.** No person shall operate a snowmobile upon any City road or right of way in any area zoned residential other than to drive directly across such road or right of way, and then only after stopping and yielding the right of way to all vehicles and pedestrians approaching on said road.

(3) **OPERATION IN PARKS AND ON PUBLIC LANDS PROHIBITED.** No person shall operate a snowmobile in any park or on any public lands within the City of Pewaukee unless such park or public lands have been designated as a snowmobile route or trail by the City Common Council.

(4) **OPERATION ON PRIVATE LANDS.** No person shall drive a snowmobile on private property without first having received written permission from the property owner. Consent shall be dated, and limited to the year in which the consent is given. If the property is owned by more than one owner, the consent of all the property owners shall be necessary. Any person apprehended operating a snowmobile on property not owned by said operator, or owner of said snowmobile, shall be presumed to be in violation of this Section. This presumption shall be rebutted only upon written proof from the owner of said real estate of consent.

(5) **RESPONSIBILITY OF OWNER.** The owner of a snowmobile shall be held primarily responsible for all acts, violation, or damages caused by the operation of any snowmobile registered in his name.

(6) **INTOXICATING BEVERAGES AND DRUGS.** No person shall operate a snowmobile while under the influence of intoxicating beverages, narcotics, or other drugs. No person shall have in his possession while operating a snowmobile, any intoxication liquor, wine or fermented malt beverage.

(7) **LITTERING PROHIBITED.** No person shall deposit, throw or place any cans, paper, debris,

refuse, bottles, garbage, solid or liquid waste on the ice or in the water of Pewaukee Lake.

(8) ACCIDENTS AND ACCIDENT REPORTS.

(a) If he can do so without serious danger to his own snowmobile or to persons on board, the operator of a snowmobile involved in a snowmobile accident within the City of Pewaukee shall stop his snowmobile and shall render to other persons affected thereby such assistance as may be practicable and necessary to save them from or minimize any danger caused by the accident and shall give his name and address and identification of his snowmobile to any persons injured and to the owner of any property damaged in the accident.

(b) If the snowmobile accident results in death, or injury to any person or total property damage in excess of \$100.00, every operator of a snowmobile involved in such accident shall, as soon as possible, notify the Waukesha County Sheriff's Department or the City police department of the accident and shall within ten (10) days after the accident, file a written report thereof with the department on forms prescribed by it.

(c) If the operator of a snowmobile is physically incapable of making the report required by this Section and there was another occupant on the snowmobile at the time of the accident capable of making the report, he shall make the report.

(d) "Snowmobile accident" means a collision, accident or other casualty involving a snowmobile.

(9) DRIVING AUTOMOBILES, SNOWMOBILES, OR OTHER MOTOR DRIVEN VEHICLES ON THE ICE. No person shall use or operate any automobile, snowmobile, or any other motor driven vehicle including aircraft in any manner so as to endanger persons engaged in skating, skiing, ice boating, fishing, or any other winter sport or recreational activity being engaged in on the ice, and no person shall, while using or operating any such vehicle, push, pull, or tow any person or persons on skates, sleds, skis, toboggan, or device or things of any kind designed or used to carry or support one or more persons unless such sled, or device is attached by a rigid tow bar to the frame of the towing vehicle.

(10) PROPELLER DRIVEN SURFACE CRAFT PROHIBITED. No person shall operate any propeller driven surface vehicle, device or thing, whether or not designed for the transporting of a person or persons.

(11) DEFINITIONS. The word "automobile" as used in this ordinance shall be construed to mean all motor vehicles of the type and kind permitted to be operated on the Highways in the State of Wisconsin.

"Motor Driven Vehicle" as used in this Code shall be construed to mean any kind of device or thing designed or utilized for propulsion or movement upon the ice using a motor, whether of internal combustion design or not.

6.10 FILLING OF LAND AND WATER.

(1) **PERMIT REQUIRED.** No land or water area within the City limits shall be filled either permanently or temporarily without the issuance of a permit for such filling by the City Common Council after review and recommendation of the application for such filling by the City Plan Commission.

(2) **ISSUANCE OF PERMIT.** Following the review and recommendation by the Plan Commission at a duly announced meeting, the City Common Council may direct the Building Inspector/Zoning Administrator to issue a permit for filling of land and water areas, however, if the land or water area(s) to be filled lie within three hundred (300) feet of a stream, one thousand (1,000) feet of Pewaukee Lake, or within a floodland area as defined and mapped by the Waukesha County Park and Planning Commission, the permit shall not be issued until the applicant for the permit can show evidence that the Waukesha County Park and Planning Commission has given its approval for such filling. Furthermore, if the material to be used for filling is composed of or includes substances or ingredients which are not generally found in nature, the fill permit shall not be issued until applicable provisions of the Wisconsin Statutes and Chapter 7 of the Municipal Code are addressed and any requirements

appropriately met.

(3) **APPLICATION FORMS.** Applicants for a filling permit shall obtain from the City Building Inspector and shall fully complete an application form for the filling of land or water. Such application form, when completed, shall contain at least the following information:

- (a) Name, address and telephone number of the applicant.
- (b) Specific location of the area to be filled (including a scaled map of the area).
- (c) Owner(s) of the area to be filled.
- (d) Existing and proposed elevations of the area to be filled.
- (e) Size (area) of the proposed filled area both in square feet of surface and cubic yards of fill.
- (f) Type of material to be used in the fill process.
- (g) Time period during which the filling will be accomplished.
- (h) Disposition of any water (either permanent or temporary) which will be displaced by the fill.
- (i) Type and size of equipment used in the filling and final grading of the area.
- (j) Proposed use of the area to be filled.
- (k) Existing zoning of the area to be filled.
- (l) Type and extent of landscaping, seeding or sodding of the filled area.
- (m) Number (or attachment) of any required Federal, State or County permits.
- (n) List of the names and addresses of owners of property within six hundred (600) feet of the area to be filled.

(4) **SUBMISSION OF APPLICATION AND FEE.** The applicant shall present the completed fill application along with any necessary attachments and an administrative fee as shall be established from time to time by resolution of the Common Council to the City of Pewaukee at least thirty (30) days prior to the Plan Commission Meeting at which the application is scheduled for review. (Rep. & Rec. 06-17)

(5) **AMENDMENT OF APPLICATION.** Following review, if the Plan Commission recommends denial of the application along with stated reasons for such denial and the City of Pewaukee at their subsequent meeting concurs with that recommendation; or, if the City Common Council disagrees with an approval recommendation of the Plan Commission, the applicant may later amend the application and reapply, may drop the proposal, or may pursue the matter through established legal procedures.

(6) **APPROVAL OF APPLICATION.** If the application is approved by the City Common Council the applicant may obtain the fill permit from the Building Inspector and may proceed with the filling as approved and conditioned by the City Common Council.

(7) **PENALTIES.** Violations of this amendment shall carry penalties as provided in §6.20 of Chapter 6 of the Municipal Code. (Rep. & Rec. 06-17, 16-03)

6.11 USE OF PUBLIC BUILDING, PUBLIC STRUCTURES AND PUBLIC PROPERTY

(1) **PROPERTY OF THE CITY.** No person shall therefore, destroy or unlawfully remove, take, or meddle with any property of any kind of nature belonging to the City of Pewaukee without the consent of the proper authority or City representative.

(2) **PUBLIC BUILDINGS.** No person shall enter upon, into, or open any public building or public structure owned or operated by the City of Pewaukee other than those areas of public buildings that are held for the public without the express consent of the proper authority or City representative.

(3) **CITY BOATING EQUIPMENT.** No person, firm or corporation shall park, leave standing or place any boat, canoe, launch skiff, raft, pontoon boat or any vessel used on navigable waters upon any public property not specifically designated for such use, without permission of a law enforcement officer. (Rep. & Rec. 09-21)

6.12 PARK RULES ADOPTED.

(1) PARK RULES. All parks located in the City of Pewaukee shall contain the following rules and regulations, which rules and regulations are hereby adopted by the City of Pewaukee and shall govern the use of all citizens of the City parks:

(a) Individual conduct. (Rep. & Rec. 09-21)

1. No activities by any person or organization for which a charge is made without Common Council approval.
2. No willful disfigurement of buildings, equipment, or grounds.
3. All persons will use the restrooms designated for that person's sex.
4. No littering in any form.
5. No person or organization will be permitted exclusive use of any areas or buildings without written approval from the Parks & Recreation Director.
6. No animals of any kind shall be allowed in the park.
7. No selling of beer or alcoholic beverages without a City permit.
8. No hawking, merchandising or selling of any articles without prior permit of the Common Council.
9. No advertising of any nature will be permitted in the Parks.
10. No placing or posting of signs, without written approval from the Parks & Recreation Director.
11. No hunting.
12. No starting fires in the other than specified locations, and specified containers.
13. No one may stay in the Park buildings overnight.
14. No alcoholic beverages may be stored in the Park buildings or on the grounds overnight.
15. No music by band instruments, portable or fixed speakers, radios, or any musical device before 10:00 A.M. or after 10:00 P.M.
16. No overnight camping except for a park and recreation program with approval by the Parks & Recreation Director.
17. No street vendor sales will be allowed in any area of a park including the parking lots unless approval has been received from the Joint Park and Recreation Board and proper permits are received from the City as part of a special or community event. (Cr. 11-16)

(b) Vehicles.

1. Rate of speed limited to 10 m.p.h.
2. No parking of vehicles in other than designated lots.
3. No operation of motorized vehicles in other than designated lots and roadways.
4. No parking unless participating in Park events.
5. No overnight parking.

(c) Closing hours. Parks close at 10:00 p.m. unless prior approval of the Park & Recreation Director later use is granted.

(2) WILLFUL DAMAGE TO PARK PROPERTY. In the event any person or individual is adjudged guilty of any willful acts causing damage or destruction to park land or property then and in that event the current and future provisions of Sections 943.01-943.05 of the Wisconsin Statutes, are hereby adopted and made a part of this Code by reference.

6.13 FIREWORKS.

(1) FIREWORKS PROHIBITED. No person shall sell, give, transfer, purchase, receive, possess, transport, use, discharge, ignite or cause to be ignited within the City of Pewaukee any devices that are prohibited for use in Wisconsin in Chapter 167, Wisconsin Statutes, or any future addition, amendment or modification thereto.

(2) PERMIT TO USE. The Mayor may grant special permits for fireworks displays under Section 167.10(2), Wis. Stats., only to a public authority; a fair association; an amusement park; a park board; a civic organization; a homeowner's association; and an agricultural producer for the protection of crops from predatory birds or animals, upon the permitted filing an insurance policy insuring the City against liability in an amount approved by the Common Council. (Rep. & Rec. 06-21)

6.14 DISPOSAL OF CONTAMINANTS AND OTHER UNAUTHORIZED MATERIALS AT THE CITY RECYCLING STATION AND ON OTHER CITY LANDS

(1) OIL RECYCLING. Only oil used in internal combustion engines (motor oil) as a friction reducer and internal lubricant may be brought to or deposited at the City Hall oil recycling station. All liquids other than "motor oil" shall be classed as contaminants whether in separate containers or mixed with "motor oil". The draining or depositing of such contaminants into the Town's used oil receptacle or other receptacles at the recycling center, or the leaving of containers of liquid waste other than "motor oil", or the dumping or spilling of liquid waste on soil, grass, gravel, or paved areas or in storm and sanitary sewers shall be deemed a violation of this Code with penalties as set forth herein.

(2) YARD OR GARDEN WASTE. Only trees, and tree and woody bush trimmings may be brought to and deposited at the City Hall recycling station. Such trees and tree or woody bush trimmings shall be placed in a pile in an area designated by recycling station staff. All yard or garden waste or debris other than trees, and tree and woody bush trimmings shall be classed as a contaminate in whatever form. The leaving, depositing or dumping of such yard waste contaminants at the City Hall recycling station, on City lands, or on other public property shall be deemed a violation of this Code with penalties as set forth herein.

(3) CONSTRUCTION MATERIALS AND WASTE. Only metal (steel, iron, aluminum, brass, copper, tin) may be brought to and deposited at the City Hall), recycling station. Such metal shall be free of attached non-metal materials and placed in a receptacle or in a designated yard area as directed by the recycling station staff. All construction materials other than the afore described metal shall be classed as a contaminant in whatever form. The leaving, depositing or dumping of such construction material contaminants at the City Hall recycling station shall be deemed a violation of this Code with penalties as set forth herein.

(4) MOTOR VEHICLE PARTS. Only solid metal (Section 6.14, Subsection 3) motorized vehicle parts may be deposited at the City Hall recycling station. Such solid metal parts shall be free of all attached non-metal materials and fittings and placed in a receptacle or in a designated yard area as directed by the recycling station staff. All motorized vehicle parts and accessories, other than the afore described metal parts shall be classed as a contaminant in depositing or dumping of such motorized vehicle parts at the City Hall recycling station shall be deemed a violation of this Code with penalties as set forth herein.

(5) HOUSEHOLD AND COMMERCIAL WASTE. Home and Business Decorating Waste and Chemicals- Garbage, trash, paint, thinner, asphalt, wall or floor coverings, household and commercial chemicals, or items of a similar nature may not be deposited at the City Hall recycling station, on City land or other public lands within the Town. Such items or materials are classed as contaminants, and violation of this Code will result in penalties as set forth herein.

(6) SOIL, GRAVEL, SAND, ASPHALT, CONCRETE AND OTHER DEVELOPMENT OR PAVING DEBRIS. No soil may be deposited upon City land without permission of the City Common Council, or Mayor, or City Administrator, or City Engineer. No paving materials or other debris from utility or private/public facility construction/reconstruction shall be deposited upon City lands, and such materials are classed as contaminants. Depositing of such contaminants constitutes a violation of this Code with penalties as set forth herein.

(7) No dumping of recycled or other materials except as instructed. **(Cr. #11-06)**

(a) No person may deposit any materials, whether for recycling or not, on City owned property, unless they are deposited in containers identified specifically for that material or as directed by City employees.

(b) The owner of any vehicle captured on surveillance devices shall be presumed to be the violator of this subsection, unless the owner provides the name and address of the operator at the time of violation and the person so named admits to operating the vehicle at the time of violation.

(8) PENALTIES FOR VIOLATIONS. Any person, firm or corporation found to have violated any part of this Section shall be subject to a fine of not less than \$100 nor more than \$1000 for each violation, with each day constituting a separate violation beginning with the day of notification of such violation. **(Ren. 11-06)**

6.145 GARBAGE AND RECYCLING SERVICES (Cr. 14-15, Rep. & Rec. 16-04)

The City shall be the exclusive provider of garbage and recycling services to all residential premises consisting of four (4) or less dwelling units. Provision of and payment for services shall be determined by the Common Council.

All receptacles and containers for garbage and recycling and all bundles of rubbish shall be placed in collection locations as designated not earlier than twenty-four (24) hours before the regular collection time. All receptacles and containers shall be removed within twenty-four (24) hours after the regular collection time. Any property owner, tenant, or other person violating this subsection shall forfeit an amount to be set from time to time by resolution of the Common Council.

6.15 E 9-1-1 EMERGENCY TELEPHONE LINE ABUSE PROHIBITED (Cr. 03-8, Rep. & Recr. 06-11)

(1) PURPOSE. For various reasons, false E-9-1-1 calls have become an increasing problem in the City of Pewaukee. Each false call requires response by emergency response personnel, involves unnecessary expense to the City and dilutes the City's ability to respond to legitimate emergencies. Such false calls affect the health, safety and welfare of the citizens.

(2) DEFINITIONS. Emergency: For purposes of this section, an emergency exists when a person reasonably believes that immediate response by public safety personnel is essential due to the risk or actual occurrence of death or bodily harm; property damage; or any other situation which reasonably requires the immediate response of public safety personnel.

(3) INTENTIONALLY FALSE E 9-1-1 CALLS PROHIBITED.

(a) No person shall use the E 9-1-1 emergency telephone number system for any purpose other than to report an emergency.

(b) No person shall use the E 9-1-1 system to report an emergency knowing that the fact situation which he reports does not exist;

(c) No person shall dial E-9-1-1 and hang up without reporting an emergency, if, in fact, no emergency exists;

(d) No parent, guardian or other adult having the care and custody of a person under the age of 18 years shall permit or by insufficient control allow such person to violate the provisions of this section.

(e) Any person violating this subsection regarding intentional false E 9-1-1 calls shall forfeit an amount to be set from time to time by resolution of the Common Council.

(4) UNINTENTIONAL E 9-1-1 CALLS.

(a) Unintentional calls to E 9-1-1 made due to human error, equipment malfunctions, or equipment programming shall be the joint and several responsibility of the person dialing the unintentional E-911 call and the owner, tenant, business occupant, occupant or person in control of a premises or telephone equipment including wireless phones from which such false E-911 calls originate.

(b) The person dialing the unintentional E 9-1-1 call, or the owner, tenant, business occupant, occupant or person in control of a premises or telephone equipment including wireless phones from which such false E 9-1-1 calls originate shall be issued a citation and subject to a forfeiture in an amount determined from time to time by resolution of the Common Council. No citations shall be issued nor forfeiture assessed for the first three false calls in a calendar year (January 1 - December 31). (Rep. & Rec. 06-19)

6.16 FALSE ALARMS (Rep. & Recr. 09-21)

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

(a). "Alarm system" means a device which is used at establishments and residences and transmits a signal which is received by a law enforcement agency.

(b). "False alarm" means a signal from an alarm system resulting in a response by law enforcement officers when an emergency situation does not exist.

(2) Purpose. The purpose of this section is to establish regulations, standards and controls relating to the use of alarm devices which are monitored by law enforcement and to prevent false alarms, which intentionally or otherwise create a hazard to the public.

(3) False Alarms General. For various reasons, false alarms from alarm systems frequently occur. Each false alarm requires response by public safety personnel, involves unnecessary expense to the City of Pewaukee, increases the risk of injury to persons or damage to property and dilutes the overall public safety protection to the City of Pewaukee. Such false alarms constitute a public nuisance and must be abated. Persons connecting to central alarm systems which are monitored by law enforcement shall pay to the City of Pewaukee a charge for such false alarms as shall be established from time to time by resolution of the Common Council. (Rep. & Rec. 06-17)

(4) Intentional False Alarms. No person shall intentionally cause the activation of a police alarm device knowing that no crime or emergency exists. Any person convicted of violating this section shall forfeit not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for each violation.

6.17 ASSISTANCE BY CIVILIANS (Rep. & Recr. 09-21)

All persons in the City, at the request of any law enforcement officer or peace officer shall aid and assist such officer in the execution of his/her duties.

6.18 SMOKING PROHIBITED IN CERTAIN PREMISES (Cr. 10-08)

1. STATE STATUTES ADOPTED. The provisions of Chapter 101.123 of the Wisconsin Statutes as amended by 2009 Wisconsin Act 12 relating to the prohibition of smoking in various enclosed places are hereby adopted and made part of this Code by reference.
2. LOCAL AUTHORITY – OUTSIDE SMOKING. The person in charge of a restaurant, tavern, private club, or retail establishment located in the City of Pewaukee may designate an outside area that is a reasonable distance from any entrance and/or exit to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the establishment may smoke.
3. SMOKING PROHIBITED IN CERTAIN AREAS. The city prohibits smoking in its buildings, on certain City owned properties and in City owned vehicles. Smoking is prohibited on city owned property within twenty-five (25) feet of an entrance to City Hall, the Police Department, all Fire Stations, all roofed/permanent structures in City Parks, all Water/Sewer Utility Buildings, the Parks Maintenance garage and the Public Works garage. Smoking is also prohibited on the soft surface of the children's playgrounds.
4. PENALTIES. Any person who violates this section or the State laws incorporated herein, shall be subject to the penalties and remedies as provided in Section 25.04 of the Municipal Code, provided

that any forfeiture imposed shall not be less than the minimum forfeiture described in Wisconsin Statutes Section 101.123(8).

6.20 PENALTIES (Renumbered 09-21)

Any person who shall violate any provision of this Chapter shall upon conviction thereof be punished as follows:

(1) PENALTY PROVISION. Any person who shall violate any other provision of this Chapter shall be subject to a penalty as provided in §25.04 of this Municipal Code.

(2) REPLACEMENT OR REPAIR OF DAMAGED OR DESTROYED PROPERTY. In addition to any penalty imposed for violation of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates this chapter 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.

The parent or parents of any unemancipated minor child who violates this chapter 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.

