

**CITY OF MUSKEGO
CHAPTER 9 - ORDERLY CONDUCT**

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**CITY OF MUSKEGO
CHAPTER 9 - ORDERLY CONDUCT**

9.001 PUBLIC PEACE AND GOOD ORDER

9.001 STATE LAWS PROHIBITING CERTAIN OFFENSES ADOPTED

- (1) Except as otherwise specifically provided in this Code, the current and future statutory provisions of Sections 134.66, 134.71, 961.41(3g), 961.573, 961.574, 961.575, and Chapters 938 through 947 and Chapter 951, Wisconsin Statutes, describing and defining regulation against the peace and good order of the State, and cross reference contained therein to other sections and subsections 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 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. (Ord. #1002 - 11-04-99)
- (2) In construing the foregoing Sections and all present and future Ordinances of the City of Muskego in which statutory provisions have been enacted by reference thereto, the construction of such Ordinances shall be made pursuant to Chapter 990 of the Wisconsin Statutes and any future amendments, revisions, modifications or recreation of the current or future Chapter 990 are intended to be made part of this Code in order to secure uniform statewide regulation of peace and good order of the State.

Further, whenever the word "crime" is used in the foregoing Sections it shall be taken to mean "offense" and whenever the phrase "criminal intent" is used, it shall be taken to mean "intent".

9.01 DISCHARGE OF FIREARMS AND GUNS PROHIBITED.

- (1) **GENERAL PROHIBITIONS AND EXCEPTIONS. (Ord. #1378 – 10-03-2013)**
 - (a) No person except a sheriff, constable, police officer, or their deputies or any citizen lawfully defending life or property, shall fire or discharge any firearm (as defined by Wisconsin State Statutes), spring or air gun of any description within the city except as herein provided. This section shall not prevent the maintenance and use of a licensed rifle or pistol range, shooting gallery or trap/skeet range authorized by the Common Council.
 - (b) The firing or discharging of devices which propel a projectile by means of spring, air or gas pressure including but not limited to BB and pellet guns, and Airsoft guns, is permitted only upon private premises by persons who are over 14 years of age or are under direct personal supervision of a parent or guardian.
 - (c) The transporting, firing, or discharging of shot guns is limited to:
 - (1) The hunting seasons and regulations as provided by the Department of Natural Resources of the State of Wisconsin on land that is owned or rented, or with the land owner's or renter's consent, or on lands open to the public for hunting.

- (2) Open bodies of water provided no shot shall be caused to be propelled into an area of habitable buildings or building and provided that no shotgun shall be discharged on the shoreline or within posted areas on Little Muskego Lake.
 - (3) Any person owning or renting land in the City who raises crops from such land and operates the same for farm purposes or any person who is under his direct supervision and control, for the purposes of destroying birds and animals doing damage to his crops or for the control of rodents, but in no case closer than 300 feet from any Federal, State, County Highway or City Street or park, church, municipal or school grounds, or any other private dwellings.
 - (4) Any person may, on his own property or with the consent of an owner thereof, discharge a shotgun providing he is more than 300 feet from any dwelling; Federal, State, County, or City Highway; or park, church, municipal or school property.
- (d) Gun salutes, using blank cartridges, as a special function at a parade, program or funeral is permitted.
- (2) REGULATIONS FOR LICENSED TARGET SHOOTING, ARCHERY RANGE, TRAP AND SKEET SHOOTING, AND SHOOTING GALLERIES.
- (a) LICENSE REQUIRED. No premises shall be used or permitted to be used as a shooting gallery, archery range, or place to practice target shooting or for trap or skeet shooting, without being licensed by the Common Council.
 - (b) LICENSE FEE. The license fee for commercial shooting galleries, archery ranges, and places for target shooting shall be as established from time to time by Resolution of the Common Council. The license shall expire on June 30 after the granting thereof, unless sooner revoked. (Ord. #914 - 02/20/97)
 - (c) LICENSE FOR CORPORATIONS, ETC. No corporation, firm, association, or club shall be granted a license hereunder except to an agent thereof first duly appointed by it who is, at the time of filing said application, an officer, manager or member thereof, a citizen of the United States, and who shall have had executed to him written delegation, full authority, and control of the premises described in his license and of the conduct of all business and acts thereon, and who shall, with respect to his qualifications be satisfactory to the Common Council. Such agent shall be personally responsible for compliance with all the terms and provisions of this section. If such appointed agent shall, during any license year, cease to be an officer, manager or member of any corporation, firm, association, or club on whose behalf said license was issued, a new license shall be required and application therefore shall be forthwith made pursuant to the terms and provisions of this section.
 - (d) LICENSES FOR INDIVIDUALS. No individual shall be granted a license hereunder unless he shall have been, at the time of filing of said application, a citizen of the United States and have qualifications satisfactory to and receive the approval of the Common Council.

(3) APPLICATION FOR LICENSE.

(a) Application for a license for any premises required to be licensed hereunder shall be made in writing and accompanied by the license fee. Said application shall contain the following information:

1. Name of applicant. (State whether a firm, association, corporation, club, or individual)
2. Address of applicant.
3. If applicant is an individual, state age.
4. If applicant is not an individual, state name and address of all officers.
5. Location and description of premises sought to be licensed.
6. Statement as to whether said premises are owned or leased by applicant.
7. Qualifications of applicant.
8. Name of agent or applicant to whom license shall be issued.
9. Furnish proof of appointment of agent.
10. Qualifications of agent.

(b) No application shall be submitted to the Common Council unless said application shall have been approved by the Licensing Committee and the Building Inspector.

(c) No target, trap, or skeet shooting shall be conducted between the hours of 10:00 p.m. and 10:00 a.m., unless specifically authorized by the Common Council for special occasions such as skeet shoot contests, etc. (Ord. #503; 11-13-84)

9.02 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.

(1) No person shall throw or shoot any object, arrow, stone, snowball, or other missile or projectile, by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground, or other public place within the City. (Ord. #1176 - 08-05-2004)

(2) This section does not prohibit the throwing of snowballs, or use of paintball, Airsoft, or other such objects with the mutual consent of the parties involved in such activities, and with other conditions as may be required by ordinance. (Ord. #1176 - 08-05-2004)

9.03 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.(Ord. #1394 – 02-05-2015)

(1) STATE LAWS ADOPTED. The current and future statutory provisions of Wisconsin Statute, Section 167.10, regulating the sale and use of fireworks, except in so far as this ordinance is more restrictive as to use, exclusive of any provision therein relating to penalties, are hereby adopted by reference and made part of this code as though fully set forth herein. Any future additions, amendments, revisions or modifications of Wisconsin Statute 167.10 incorporated herein are intended to be made a part of this code, except in so far as this ordinance is more restrictive as to use.

(2) SALE OF FIREWORKS.

- (a) The sale of “fireworks”, as that term is defined in Section 167.10(1), Wisconsin Statutes, is prohibited within the City of Muskego.
- (b) The sale of those items defined in Section 167.10(1)(e), (f), (i), (j), (k), (l), (m) and (n), Wisconsin Statutes, shall only be allowed after the seller of those items has been issued a license by the City of Muskego for that purpose. The license shall be issued pursuant to the provisions of Section 12.03 of the City of Muskego Municipal Code, and the provisions, procedures and conditions of that section shall apply, with the exception of the license fee. The fee for a license issued under this section shall be a \$50.00 daily fee or an annual license fee of \$500.00 to compensate for investigating and monitoring sellers and enforcing the provisions of this section.

(3) USE OF FIREWORKS.

- (a) Prohibited Without a Permit. The use of fireworks, as that term is defined in Section 167.10(1), Wisconsin Statutes, is prohibited in the City of Muskego unless the fireworks are used pursuant to a group user permit or individual user permit issued by the City of Muskego, according to the provisions of Section 167.10 (3), Wisconsin Statutes and all of the requirements and limitations of this Section 9.03.
- (b) Group User Permit. A group user fireworks discharge permit application may be made by: a public authority; a fair association; an amusement park; a park board; a civic organization; a group of individuals that are all residents of the City of Muskego; an agricultural producer for the protection of crops from predatory birds or animals. Such application may be made pursuant to Section 167.10 (3) (c), Wisconsin Statutes, and shall be subject to all terms of this Section 9.03. For group users, a pyrotechnic professional must discharge the fireworks and the applicant or sponsoring organization must have liability insurance naming the City of Muskego as additional insured in the amount of \$1,000,000.00 bodily injury to one person, \$2,000,000 for injury to more than one person, and \$1,000,000 for damage to property. The application must specify the name and address of the requested permit holder, the date on and after which fireworks may be purchased, the general kind and approximate quantity of fireworks which may be purchased, the date and location of the proposed use, and the name, address and telephone number for the pyrotechnic professional that will discharge the fireworks. If the application is from a group of individuals, the location of the proposed use must be owned by one of the members of the group, and this ownership of the location must be stated on the application. A certificate of insurance in a form approved by the City Attorney shall be provided prior to the discharge of any fireworks, evidencing all of the required insurance coverage. A separate application must be submitted for each day use is intended.
- (c) Individual User Permit. An individual user fireworks discharge permit application may be made by any owner and resident of real property in the City of Muskego, for intended discharge on such applicant’s property. Such application may be made pursuant to Section 167.10(3)(c), Wisconsin Statutes, and shall be subject to all applicable terms of this Section 9.03. Such use is restricted to the following dates:

July 3, 4 or 5 each year, subject to the following. If the 4th of July falls on a Monday or Tuesday, the Saturday before will be allowed. If the 4th of July falls on a Wednesday or Thursday, the Saturday after will be allowed. The application must specify the name and address of the requested permit holder, the date on and after which fireworks may be purchased, the general kind and approximate quantity of fireworks which may be purchased, the date and location of the proposed use, and the name, address and telephone number for the individual responsible for the discharge of fireworks. A separate application must be submitted for each day use is intended. All permit applications under this subsection must be filed between May 1 and June 30, unless earlier submission is required to allow for Public Safety Committee review pursuant to Section 9.03(3)(d)(7).

(d) Restrictions and Limitations. In addition to all other requirements of this Section 9.03 and applicable State laws, any use of fireworks shall be subject to the following requirements:

1. *Wind velocity.* Wind velocity at the time of use shall not be more than 15 miles per hour as recorded by the U.S. Weather Bureau, Milwaukee, Wisconsin.
2. *Wind direction.* Wind direction at the time of use shall be away from buildings or other combustible materials and structures and shall not carry fireworks onto any adjoining buildings or cause annoyance or danger to other persons or property.
3. *Fire prevention.* Sufficient firefighting implements and personnel shall be available at the scene to control any fire that may be caused by the fireworks.
4. *Hours.* Fireworks may only be used between 4:00 P.M. and 11:00 P.M.
5. *Responsibility on Permitted Property.* For property that is subject to a fireworks permit, only the individual or professional designated on the permit application may discharge fireworks. Such individual or professional is responsible in case of a violation, jointly and severally with the permit holder and property owner, and any or all of these parties may be cited for the violation.
6. *Responsibility on Non-Permitted Property.* For property that is not permitted for the discharge of fireworks, if fireworks are discharged the actual person that caused the illegal discharge is responsible for the violation if such person is identified to the City's satisfaction. If the City cannot determine to its satisfaction the actual person that caused the illegal discharge, the owner or occupant of the property where the discharge occurred will be presumed to have caused the discharge, or to have aided or abetted the discharge, and shall be held responsible for the illegal discharge and may be cited for the violation. Such presumption may be rebutted only by credible evidence to show that the owner or occupant of the property had no knowledge of the fireworks being on the property at any time prior to the discharge, and that the owner or occupant of the property fully

cooperated with the City in trying to identify the actual person who caused the illegal discharge. If the actual person that caused the illegal discharge is a minor child, the parents of the minor child shall be held responsible along with the minor child, and may be cited for the violation.

7. *Public Safety Committee Review.* The City of Muskego Public Safety Committee shall review certain fireworks permit applications. This review applies when the application includes an applicant, property owner, or person designated to discharge fireworks, who has been convicted of any citation issued under this section in the prior year, or was the subject of a written complaint filed with the City within one week of a permitted fireworks discharge in the prior year, or was issued a written warning from the City police department for a fireworks discharge violation in the prior year. For individual permit applications subject to this Safety Committee Review requirement, the applications must be submitted after April 1 and prior to May 1 of the year in which discharge is intended, to allow for this review. For group permit applications subject to this requirement, the applications must be submitted at least 30 days prior to the requested event, to allow for this review. The failure of an applicant that is subject to this Safety Committee Review requirement to submit their application in a timely manner, or to appear before the Committee, will result in the application for a permit being denied.
8. *No sale.* No person in the possession of fireworks pursuant to this section may resell those fireworks in the City of Muskego.
9. *Permit availability.* The permit the city issues for the use of fireworks must be made available upon request of a police officer. In accordance with state statute, a copy of a permit shall be given to the municipal fire and law enforcement official at least 2 days before the date of authorized use, and the Clerk is responsible for doing so.
10. *Fee.* A fee for said permit shall be established from time-to-time by resolution of the City of Muskego Common Council and must be submitted at the time of application. (Ord. #912 – 03/20/97)
11. *Temporary ban.* The Mayor, upon recommendation of the Fire Chief because of extreme dryness or drought, may in the Mayor's discretion declare a temporary ban on fireworks. No fireworks may be discharged during a declared ban. Any permit which would otherwise allow discharge on a date during such ban is automatically revoked, subject to the following. Such permittee may apply for a new discharge date after the ban is lifted without incurring a new fee. For individual user permits, if any of the possible discharge dates of Section 9.03(3)(c) are during the ban, the Common Council shall have the authority, but not the obligation, to establish additional discharge dates which would apply only to those permittees who

were not able to discharge fireworks on their permitted dates due to the ban.

12. *Acceptance of risk.* All fireworks discharge permits issued in the City are issued subject to the possibility that discharge may be prohibited, even if the permit is issued, due to the restrictions and limitations of this ordinance. All applicants accept this risk and shall be solely responsible for all consequences of the same, by their submittal of the application.

(4) **SEIZURE AND DESTRUCTION OF FIREWORKS.**

In addition to, and not to the prejudice or exclusion of such other penalties and remedies as may apply, fireworks stored, handled, sold, possessed or used by a person who violates the terms of this ordinance may be seized and held as evidence of the violation. In the event a person is convicted of violating this ordinance all fireworks seized shall be destroyed pursuant to the provisions of Section 167.10(8)(b), Wisconsin Statutes, and any license or permit issued to the person under this section shall be revoked.

9.04 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

No person shall stand, sit, loaf, or loiter or engage in any sport or exercise on any public street, sidewalk, bridge, or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall, or meeting place.

9.05 LOUD AND UNNECESSARY NOISE PROHIBITED.

- (1) No person shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley, or park or any private residence.
- (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) No person shall operate a motor or power-driven vehicle including, but not limited to, motorcycles, minibikes, go-carts, all-terrain vehicles or other power driven vehicles off public streets or highways where the operation of the vehicle causes substantial interference to neighboring property owners of the use and enjoyment of their premises. For the purpose of this section, "substantial interference" means interference which is more than a slight inconvenience or petty annoyance. For the purpose of determining whether the interference is substantial, the frequency of the activity, the failure of the operator to reasonably accommodate the objections of neighbors once those have been communicated to the operator, and whether ordinary persons living in the City of Muskego would regard the interference as offensive, annoying or intolerable as determined based on the general standards of ordinary persons in the community and not based on the standards of persons who are more sensitive than ordinary persons to such activity shall be considered. (Ord. #1347 – 01-19-12)
- (4) No person shall operate construction or excavation equipment between the hours of sunset and 7:00 A.M. Monday through Friday, between the hours of sunset and 8:00 A.M. on Saturday, and between the hours of sunset and 10:00 A.M. on Sunday if the noise from such equipment would tend to unreasonably disturb or annoy anyone living in the vicinity of the construction or excavation site. (Ord. #801 - 07/22/93)

The requirements of this Subsection may be waived or modified by the Mayor or Common Council if in the opinion of the Mayor or Common Council extraordinary circumstances make it necessary for the overall public welfare to waive or modify the time limits of this Subsection. If the waiver or modification is granted by the Mayor, the Common Council may modify or overrule the same by a 2/3 vote of all the members of the Common Council. (Ord. #885 - 02-01-96)

9.06 FALSE ALARMS PROHIBITED.

No person shall give or send or cause to be given or sent in any manner any alarm of fire or other emergency which he knows to be false.

9.07 OBEDIENCE TO OFFICERS.

No person shall resist, or in any way interfere with any officer of the City while such officer is doing any act in his official capacity and with lawful authority, or shall refuse to assist an officer in carrying out his duties when so requested by the officer.

9.08 LOITERING 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 the appearance of a police officer, refused to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances make it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the person any opportunity to dispel any alarm which would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the police officer at the time, would have dispelled the alarm. (Ord #707; 2-21-91)
- (2) OBSTRUCTION OF HIGHWAY BY LOITERING. No person shall obstruct any street, bridge, sidewalk, or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.
- (3) OBSTRUCTION OF TRAFFIC BY LOITERING. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings, or bridges or in any other public places within the City in such manner as to prevent, interfere with or obstruct the ordinary free use of any said public streets, sidewalks, alleys, street crossings, and bridges or other public places by persons passing along and over the same.
- (4) LOITERING AFTER BEING REQUESTED TO MOVE. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks, or adjacent doorways or entrances, street crossings, or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police officer or by any person in authority at such places.
- (5) LOITERING 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.

9.09 LITTERING PROHIBITED. (Ord. #745 - 03/19/92)

- (1) No person shall throw any glass, refuse, waste materials of any kind, filth or other litter upon the streets, alleys, highways, public parks or other property of the City or upon any private property or upon the surface of any body of water within the City.
- (2) No person shall allow any dog or cat which belongs to them or which is within their supervision or control to deposit any fecal material upon any public or private property, other than the person's own property, unless that person immediately removes all such fecal material and deposits the same in an appropriate receptacle. (Ord. #789 - 03-04-93)
- (3) Notwithstanding any other penalty provisions contained in this Code, the penalty for violation of subsection (2) shall be \$25.00 for the first offense, \$50.00 for the second offense, and \$100.00 for the third offense, together with the costs of prosecution.
- (4) Placement of refuse on property of another. (Ord. #774 - 12/8/92)
 - (a) No person may place any material, junk, garbage or trash on any public or private property or in any garbage can, dumpster or other type of trash container not his own without the consent of the owner.
 - (b) Notwithstanding any other penalty provisions contained in this Code, the penalty for violation of subsection (a) shall be \$50 for the first offense, and \$100 for the second and subsequent offense, together with the costs of prosecution.

9.10 STORAGE OF JUNK, ETC., REGULATED - Repealed - Ord.#488 - 4/10/84

9.11 ANIMALS AND POULTRY NOT TO RUN AT LARGE.

No person having in his possession or under his control any animal or fowl shall allow the same to run at large within the City, except domesticated animals and fowl may run at large on property zoned as Agricultural under the Zoning Code.

9.12 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.

9.13 ABANDONED OR UNATTENDED ICE BOXES, ETC., PROHIBITED.

No person shall leave or permit to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling, or other structure under his control in a place accessible to children, any abandoned, unattended, or discarded 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.

9.14 OPEN FIRES RESTRICTED.

- (1) BURNING OF GARBAGE AND TRASH PROHIBITED. No person shall burn garbage, paper, putrescible materials, buildings or other structures, lumber, construction materials, or materials from razed buildings within the City limits. (Ord. #755 - 06-18-92)
- (2) LOCATION OF BURNING PROHIBITED: No person shall burn any materials of any kind within 20 feet of the water edge, in drainage ditches, or on or along water courses. The burning of cattails, prairies, canary grass, exotic weed species, brush or similar materials on, in or near a lake, stream, or wetland is allowed with notice to the Muskego Police Department in advance of a burn. Above burning is subject to provisions of Section (3).(Ord. #1051 – 01-18-01)
- (3) Outdoor burning regulated except as prohibited by Sections (1) and (2): Outdoor burning within the City shall be allowed as follows: (Ord. #1348 – 03-08-12)
 - (a) The burning of dry brush, dry leaves, dry plant clippings, dry limbs, dry branches, dry logs or “bon” fires containing similar materials is allowed subject to the following regulations:
 - (1) Wind velocity shall not be more than 15 miles per hour as recorded by the U.S. Weather Bureau, Milwaukee, Wisconsin.
 - (2) Wind direction at time of fire shall be away from buildings, or other combustible materials and structures and shall not carry smoke or soot into any adjoining buildings, onto laundry hanging outdoors, or be the source of annoyance by reason of smoke, fumes, or odors to persons or property.
 - (3) The perimeter of an area of a grass or brush fire must be at least 50 feet from any building, utility pole, overhead wires, or any other combustible material.
 - (4) Sufficient firefighting implements and personnel shall be available at the scene while burning is in progress to control the fire.
 - (b) Buildings or other fires set for practice and instruction of firemen, or testing of fire-fighting equipment shall be under the supervision of the Fire Department.
 - (c) Small outdoor fires for cooking, ceremonies, or recreational campfires shall be allowed. This shall include portable fire pits, which are certified by a nationally recognized testing organization.
 - (1) The size of material burned shall not exceed 4 feet x 4 feet x 3 feet high.
 - (2) Shall not be located within 25 feet of a structure or combustible material.
 - (d) For other than one and two family dwellings, no hibachi, grill, or other similar devices used for cooking, heating, or any other purpose shall be used or kindled on any balcony, under any overhanging portion, or within 10 feet of any structure.
 - (e) Small open flames for welding, acetylene torches, safety flares, heating tar, or similar application shall be allowed.
- (4) EMERGENCIES. Whenever, because of extreme dryness or drought, the Mayor upon recommendation of the Fire Chief, shall deem it necessary to prohibit the setting of fires upon any land within the City, he shall by proclamation, declare an emergency and cause to be published in the official newspaper a notice forbidding the setting of fires with the City or any part thereof and/or have broadcast on radio or T.V. such notice, and after

publishing or broadcasting of such notice, no person shall set any fire upon lands in such area except for warming the person or cooking food until the expiration of such emergency. Due to extreme dryness or drought, the Mayor upon recommendation of the Fire Chief, shall also deem it necessary to place a temporary ban on fireworks (Ordinance 9.03). (Ord. #1364- 11-1-2012)

9.15 ASSISTING ESCAPE OF PRISONER

No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the City.

9.16 REGULATION OF MINORS ON STREETS AND IN PUBLIC PLACES.Cr. Ord. 110)

- (1) LOITERING OF MINORS PROHIBITED. No person under the age of 17 years shall congregate, loiter, wander, stroll, stand, or play in or upon the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the City of Muskego, either on foot or in or upon any conveyance being driven or parked thereon, between the hours of 11:00 o'clock P.M. AND 5:00 o'clock A.M. of the following day, official City time, unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.
- (2) LOITERING IN OR NEAR SCHOOL (ORD. #707; 2-21-91)
 - (a) Subject to the exceptions in (c), no person not in official school attendance or on official school business shall enter into, congregate, loiter, stand or play in or about any school building or school property or within 200 feet of school property between 6:30 a.m. and 5:00 p.m. on any day when schools are in session.
 - (b) Subject to the exception in (c), no person in official school attendance shall congregate, loiter, stand or play on any property within 200 feet of school property from one hour prior to school hours through one hour after school hours on any day when schools are in session.
 - (c) Subsections (a) and (b) of this section shall not apply to the following:
 - (1) A person on private property located within 200 feet of school property who has permission from the owner to be on the property.
 - (2) A person, not in official school attendance, in a city park within 200 feet of school property.
 - (3) A person on, about or within 200 feet of school property who is there with school authorization.
- (3) RESPONSIBILITY OF PARENTS. No parent, guardian, or other adult person having the care and custody of a person under the age of 17 years shall suffer or permit or by inefficient control allow such person to congregate, loiter, wander, stroll, stand, or play in or upon the public street, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, vacant lots or any public places in the City between the hours of 11:00 o'clock P.M. and 5:00 o'clock A.M. of the following day, official City time, unless the said person under the age of 17 is accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control; provided that any parent, guardian, or other adult person herein who shall have made a missing person notification to the Police Department, shall not be considered to have suffered or permitted any person to be in violation of the herein mentioned provisions of this section.

- (4) RESPONSIBILITY OF OPERATORS OF PLACES OF AMUSEMENT. No person, firm or corporation operating places of amusement or entertainment, or any agent, servant, or employee of any such person, firm, or corporation shall permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during the hours prohibited in this section unless such person is accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.
- (5) RESPONSIBILITY OF HOTELS, MOTELS, AND ROOMING HOUSES. No person, firm, or corporation operating a hotel, motel, lodging or rooming house, or any agent or servant or employee of any such person, firm, or corporation operating a hotel, motel, lodging or rooming house, shall permit any person under the age of 17 years to visit, loiter, idle, wander, or stroll in any portion of such hotel, motel, lodging or rooming house between the hours of 10:00 o'clock P.M. and 7:00 o'clock A.M. of the following day, official City time, provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian, or other adult person having the care, custody, and control of such minor.

9.17 DRINKING ON PUBLIC STREETS PROHIBITED.

- (1) It shall be unlawful for any person to drink, consume, transport, carry, or possess any intoxicating liquor, wine, or fermented malt beverage except in the original capped package, either in or out of, either a vehicle in any of the following places:
 - (a) Any City owned or controlled parking lot.
 - (b) Any public street, highway, alley, sidewalk, or other similar place within the City of Muskego.
 - (c) Any privately owned parking lot, driveway, or lot used for vehicular traffic which is used or can be used by the public with the express or implied permission of the owner thereof unless expressly authorized in writing of the owner of said parking lot, driveway, or lot.
 - (d) Any grounds under private or public ownership unless the owner thereof has granted permission for said drinking.
 - (e) Between the hours of 11:00 o'clock P.M. to 6:00 o'clock A.M. on the land described in the legal description within which a Class "A" or Class "B" fermented malt beverage or intoxicating liquor license permit is located and outside the interior of said licensed premise.
 - (f) Any grounds under the control of the Muskego-Norway School District; and the grounds of any privately owned and operated school, church, or other institution frequented by the public, unless expressly authorized by the owner thereof.
- (2) The holder of a Class "B" fermented malt beverage or intoxicating liquor license shall make every reasonable effort of discourage his patrons from taking fermented malt beverages, wine, or intoxicating liquors from the licensed premises when such beverages are served for consumption on the premises.
- (3) The common council of the City of Muskego may permit the consumption or possession of fermented malt beverages, wine or intoxicating liquors in specifically authorized public places, or any event, for which a temporary license has been issued pursuant to Chapter 12 or other provisions of the Municipal Code of the City of Muskego.

- (4) No person shall consume or have in his possession open containers of intoxicants of fermented malt beverages, or intoxicating liquor, in or upon any public thoroughfare. By thoroughfare, this section shall be constructed to include any public road, street, alley, highway, freeway, interstate, county trunk highway, or public right-of-way.
- (5) This section shall not be in effect within 200 feet of a parade route for which the City of Muskego has granted a parade permit from one hour prior to the scheduled start of said parade and until one hour after the end of said parade.

9.18 PROHIBITED OPERATION OF MOTOR VEHICLES ON THE PUBLIC THOROUGHFARES BY UNLICENSED JUVENILES.

- (1) Subject to the applicable provision of the Wisconsin Statutes and Wisconsin Administrative Code, no unlicensed juvenile under 16 years of age shall operate any motor vehicle, whether registered or unregistered, on the public thoroughfare.
- (2) DEFINITIONS. For the purposes of this section:
 - (a) A motor vehicle shall be defined as a vehicle which is self-propelled:
 - (b) Operate means driving or in actual physical control of a motor vehicle.
 - (c) Public Thoroughfare shall be defined to include any public road, street, alley, highway, freeway, interstate, county trunk highway or public right-of-way and shall include the grass area within the statutory limits of the public thoroughfare and contiguous to the traveled portion thereof.

9.19 PROHIBITED OPERATION OF "OFF THE ROAD" VEHICLES

- (1) Subject to conflicting provisions of the Wisconsin Statutes and Wisconsin Administrative Code, if any, no person shall operate within the City limits of the City of Muskego any "off the road" vehicle on any property without the permission of the landowner, except in those areas that may be designated by the Muskego Common Council as "approved vehicle parks".
- (2) AUTHORIZED OPERATION OF "OFF THE ROAD" VEHICLES. "Off the road" vehicles may be operated:
 - (a) On the premises owned by the operator or member of the family of the operator if said operator resides on the premises where said vehicle is being operated. Operation of said vehicle shall be between the hours of 9:00 o'clock A.M. and 8:00 o'clock P.M. and be such that the noise from said vehicle does not cause a nuisance and annoyance to other persons residing near said operation.
 - (b) In those areas designated by the Muskego Common Council as "approved vehicle parks" pursuant to the terms and conditions set by the Muskego Common Council.
- (3) DEFINITIONS. For the purposes of this section:
 - (a) Ord. #571 - 5/12/87 - "Off the road Vehicles" shall be defined as any mini-bike, trail bike, go-cart, or other such vehicle (expressly excluding snowmobiles and all-terrain vehicles which are regulated by separate ordinance and Wisconsin Statutes) which are commonly operated off the traveled portion of the public thoroughfare whether currently being used on or off the road and whether registered or non-registered.

- (b) Operator means a person who drives or is in actual physical control of a vehicle.
- (c) Public thoroughfare shall be defined to include public road, street, alley, highway, freeway, interstate, county trunk highway or public right-of-way.
- (d) Traveled portion is defined as the paved or otherwise surfaced portion of the roadway and the prepared shoulder, but shall include the grass area within the statutory limits of the highways and contiguous to the traveled portion thereof.
- (e) Approved vehicle parks are defined as those areas within the City limits of the City of Muskego which are specifically approved by the Muskego Common Council for operation of "off the road" vehicles.

9.20 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 fined not to exceed the minimum provided for the completed offense.

9.21 CONSPIRACY.

Whoever, with intent that an offense under this chapter be committed, agrees or combines with another for the purpose of committing that offense, if one or more parties of the conspiracy does an act to effect its object, may be fined not to exceed the maximum provided for the completed offense.

9.22 ATTEMPT.

- (1) Whoever attempts to commit an offense under this chapter may be fined not to exceed one-half the maximum penalty for the completed offense.
- (2) 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.

9.23 DISPOSAL OF ABANDONED PROPERTY (Ord. #554 - 07/03/86)

- (1) The City may dispose of any personal property which has been abandoned, or remained unclaimed for a period of 30 days after the taking of possession of the property by City officials by any means determined to be in the best interest of the City. Disposal of personal property shall be in a manner prescribed by the Common Council or those listed below:
 - (a) Public Auction
 - (b) Sealed Bids
 - (1) Said advertisement of sealed bids shall be in a manner prescribed by the appropriate Department Head.
 - (c) Destruction
 - (d) Return to Rightful Owner

- (e) Transfer to appropriate Governmental Entity
- (f) Holding of a public sale by a non-profit organization and the payment to said organization of a reasonable commission from the sale proceeds with the balance being paid to the City.
- (g) Return to the person(s) who turned the item in to the Police Department if requested and no rightful owner can be located.
- (h) Public sale through Internet based sales, i.e. E-Bay or Property Room.com. (Ord. #1228 - 06-01-2006)

These procedures presume that if the personal property to be disposed of appears to be or is reported stolen, an attempt will be made to return said property to the rightful owner.

- (2) If the property is not disposed of by the City itself in a sale open to the public, the City shall maintain an inventory of such property, a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than 2 years from the date of disposal of the property

9.24 PENALTIES

Any person who shall violate any provision of this chapter shall be subject to penalties as follows:

- (1) Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in Section 25.04 of this Municipal Code.
- (2) In addition to any penalty imposed for violation of any provisions 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 in accordance with Section 895.035, of the Wisconsin Statutes.
- (3) Any person who shall violate any provision of this chapter, which by reason thereof shall require the services of the Fire Department, shall upon conviction thereof pay a forfeiture of \$200 together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeitures and costs are paid, but not exceeding 90 days.

9.25 ENFORCEMENT. (Ord. #640 - 05/04/89)

It shall be the duty of the Muskego Police Department and the City of Muskego City Attorney to enforce the provisions of this chapter. Such enforcement shall be initiated, where appropriate, by a City Ordinance Citation being written, whose contents shall conform to the requirements found in Section 800.02(2), Wisconsin Statutes or Section 778.25, Wisconsin Statutes, including any future amendments, revisions or modifications to the requirements found in those statutes. In the event that it is not appropriate to issue a citation under the current or future 9.25 statutory provisions of Section 800.02(2) or 778.25, Wisconsin Statutes, then the violation shall be referred to the City Attorney's office where a City ordinance complaint shall be drafted and served upon the violator.

9.26 USE OF CIGARETTES AND TOBACCO PRODUCTS RESTRICTED (Ord. #753 - 06/04/92)

- (1) DEFINITIONS:

- (a) Cigarette. A narrow tube of cut tobacco enclosed in paper and designed for smoking.
 - (b) Tobacco Products. Cigars, cigarettes, cheroots, stogies, periques, smoking tobacco, tobacco in any form, including but not limited to granulated, plug cut, crimp cut, ready-rolled, fine cut, chewing tobaccos, snuff tobacco, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and any other kinds or forms of tobacco prepared in a manner as to be suitable for chewing or smoking or both.
 - (c) Schools. The public schools under the jurisdiction of the School Board of the City of Muskego
- (2) RESTRICTION ON SALE OR GIFT OF CIGARETTE OR TOBACCO PRODUCTS. Section 134.66, Wisconsin Statutes, as amended from time to time, is hereby adopted by reference as though fully set forth herein.
 - (3) USE OF CIGARETTE AND TOBACCO PRODUCTS BY CHILDREN PROHIBITED. Section 48.983, Wisconsin Statutes, as amended from time to time, is hereby adopted by reference as though fully set forth herein.
 - (4) POSSESSION OF CIGARETTES AND TOBACCO PRODUCTS BY STUDENTS IN SCHOOL BUILDINGS OR UPON SCHOOL PROPERTY. No person enrolled as a student in the Muskego-Norway School District may possess any cigarette or tobacco product at any time inside any building or on any property owned, leased or used by a public school in the City.
 - (5) USE OF CIGARETTES AND TOBACCO PRODUCTS IN SCHOOL BUILDINGS, OR UPON SCHOOL PROPERTY. No person may smoke, light, ingest, chew, inhale or otherwise use any cigarette, tobacco product or smoke from a cigarette or tobacco product at any time inside any building or on any property owned, leased or used by a public school in the City.

9.27 HARBORING OR AIDING RUNAWAYS. (Ord. #781 - 02/18/93)

- (a) No person may harbor a minor child whom the person knows to be a runaway from his or her parents, guardian or legal custodian, nor may any person aid or assist a runaway in fleeing from or avoiding the custody of the runaway's parents, guardian, legal custodian or law enforcement officers.
- (b) Notwithstanding any other penalty provisions contained in this Code, the penalty for violation of subsection (a) by a juvenile shall be \$25.00, together with the costs of prosecution, and the penalty for violation of subsection (a) by an adult shall be \$100.00 together with the costs of prosecution.