



# MARATHON COUNTY PUBLIC SAFETY COMMITTEE MEETING

## AMENDED AGENDA

Date & Time of Meeting: **Wednesday, December 2, 2020, at 2:00 pm**

Meeting Location **Courthouse Assembly Room, C-149, Courthouse, 500 Forest St., Wausau**

**Committee Members:** Matt Bootz, Chair; Brent Jacobson; Vice-Chair, Jennifer Bizzotto; Bruce Lamont; Jean Maszk; Allen Opall; Arnold Schlei

**Marathon County Mission Statement:** *Marathon County Government serves people by leading, coordinating, and providing county, regional, and statewide initiatives. It directly or in cooperation with other public and private partners provides services and creates opportunities that make Marathon County and the surrounding area a preferred place to live, work, visit, and do business. (Last updated: 12-20-05)*

**Committee Mission Statement:** *Provide leadership for the implementation of the Strategic Plan, monitoring outcomes, reviewing and recommending to the County Board policies related to public safety initiatives of Marathon County.*

The meeting site identified above will be open to the public. However, due to the COVID-19 pandemic and associated public health directives, Marathon County encourages Public Safety Committee members and the public to attend this meeting remotely. Instead of attendance in person, Committee members and the public may attend this meeting by **telephone conference**. If Committee members or members of the public cannot attend remotely, Marathon County requests that appropriate safety measures, including adequate social distancing, be utilized by all in-person attendees.

Persons wishing to attend the meeting by phone may call into the **telephone conference beginning five (5) minutes prior to the start time indicated above using the following number: 1-408-418-9388. Access Code: 146-159-7938**

When you enter the telephone conference, **PLEASE PUT YOUR PHONE ON MUTE!**

1. **Call Meeting to Order**
2. **Public Comment (15 Minutes)**
3. **Approval of the Minutes of the November 4, 2020 Public Safety Committee Meeting**
4. **Policy Issues Discussion and Committee Determination to the County Board for Consideration:**
  - A. Proposed Amendments to Marathon County Code of Ordinances – Chapter 9 (Public Peace and Good Order)
5. **Operational Functions Required by Statute, Ordinance or Resolution:**
  - A. Resolution amending Chapter 9 Of The General Code Of Ordinances, Relating To Regulations Relevant To Public Peace And Good Order Within Marathon County
6. **Educational Presentations/Outcome Monitoring Reports**
  - A. Diversion Programs – What are they, who do they serve, and how do they impact our justice system? (Ruth Heinzl)
  - B. Law Enforcement Appreciation Project (LEAP) (Kara Mohr-Weiland)
  - C. Update on our Evidence-Based Decision-Making Pretrial Assessment & Case Management Planning and Pilot.
  - D. Review of Draft System Budgeting Approach and Timeline
7. **Next Meeting Time, Location, Announcements and Agenda Items:**
  - A. Committee members are asked to bring ideas for future discussion
  - B. Next meeting: **Wednesday, January 6, 2021 at 2:00 pm**
8. **Adjournment**

*“Any person planning to attend this meeting who needs some type of special accommodation in order to participate should call the County Clerk’s Office at 715-261-1500 one business day before the meeting.*

**SIGNED /s/**           Matt Bootz            
Presiding Officer or Designee

FAXED TO: Wausau Daily Herald, City Pages, and  
FAXED TO: Other Media Groups  
FAXED BY: T. Ranallo  
FAXED DATE: \_\_\_\_\_  
FAXED TIME: \_\_\_\_\_

NOTICE POSTED AT COURTHOUSE  
BY: T. Ranallo  
DATE: \_\_\_\_\_  
TIME: \_\_\_\_\_



## MARATHON COUNTY PUBLIC SAFETY COMMITTEE MINUTES

Wednesday, November 4, 2020, at 2:00 p.m.

Employee Resources Conference Room-C-149, Courthouse, 500 Forest St, Wausau

Attendance:

<u>Members</u>	<u>Present</u>	<u>Absent</u>
Matt Bootz, Chair	W	
Brent Jacobson, Vice-Chair	W	
Jenifer Bizzotto		EX
Bruce Lamont	W	
Jean Maszk	W	
Allen Opall	W	
Arnie Schlei	W	

**Others Present:** Lance Leonhard, Kurt Gibbs, Jason Hake, Laura Yarie, Toshia Ranallo, Mary Palmer

**Via Web or Phone:** Ruth Heinzl, EJ Stark, Bill Millhausen, Theresa Wetzsteon, Sandra LaDu, Chad Billeb, Shawn Jaeger, Dean, Craig McEwen

### 1. Call Meeting to Order

The meeting was called to order by Chair Matt Bootz at 2:00 p.m.

### 2. Public Comment (15 minute limit) – None

### 3. Approval of the Minutes of the Public Safety Meeting on September 30, 2020 MOTION BY JACOBSON; SECOND BY MASZK TO APPROVE THE MINUTES OF THE SEPTEMBER 30, 2020 COMMITTEE MEETING. MOTION CARRIED.

### 4. Policy Issues Discussion and Committee Determination to the County Board for its Consideration

- A. Resolution Requesting the State of Wisconsin to Annually Allocate Funds to Public Safety  
Answering Points

#### **Discussion:**

Chief Deputy Billeb gave the history that all phones pay a fee to a fund to be used for 9-1-1 answering points. Seventy-five cents per phone and 38 cents on other electronic retail sales. The money is still collected, but not dispersed to local 9-1-1 agencies. Some money is available for new projects, but because Marathon County is forward thinking and we have already started upgrades, we are not able to access any of these funds. The request is to ask for \$15 million annually for grants to the Public Safety Answering Points (PSAPS). We need to invest further in text, video, etc.

#### **Action:**

**MOTION BY JACOBSON; SECOND BY MASK TO SUPPORT THE RESOLUTION TO ANNUALLY ALLOCATE \$15 MILLION IN FUNDS TO PSAPS AND FORWARD TO THE FULL BOARD FOR APPROVAL. MOTION CARRIED.**

#### **Follow through:**

Forward to County Board for approval.

### 5. Operational Functions Required by Statute, Ordinance or Resolution - None

### 6. Educational Presentations/Outcome Monitoring Reports

- A. Update on Impact of Recent Legislation on Operating While Intoxicated Treatment Court and  
Next Steps Relative to Treatment Court Operations Planning

**Discussion:**

Laura Yarie, Justice Systems Coordinator, gave the history of our OWI Court. It was designed to work with felony 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> high risk offenders. A team made up of all court related departments/agencies work together to review applications to the program by looking at assessments to mental health, AODA history, their motivation and willingness to participate. If accepted to the program, the individual pleads guilty which is then imposed and stayed and then they are placed on probation. This model is treatment and accountability which leads to success. Rewards and sanctions are given quickly so the accountability piece is extremely important. Data given on the success of the program is very high.

On March 1, 2020 a law was passed that 5<sup>th</sup> and 6<sup>th</sup> offenders must serve one and one-half years in prison. There is no option to give these high risk offenders probation. Our judges would like an amendment to the Act that if a person is participating in an established program, that the prison time can be waived.

Other counties that have OWI Courts were not established on the criteria that we were with the National Institute of Corrections and do not follow their criteria. Those courts are working with 3<sup>rd</sup> and 4<sup>th</sup> offenders and those higher go to prison.

**Follow through:**

No follow through needed.

B. Wisconsin Changes Policy relative to Medicaid Coverage for Incarcerated Individuals

**Discussion:**

Supervisors have been working with the Wisconsin Counties Association (WCA) and National Association of Counties (NACo) to only suspend Medicaid for incarcerated individuals. States have the option to suspend or terminate benefits upon incarceration. Wisconsin has been a termination state. When inmates are released from custody, they need to reapply for those benefits. At Federal prisons, benefits are suspended and upon release benefits are restored without any additional paperwork.

There were positions in the community helping people apply and reapply for benefits. There were constant technology, cognitive issues, and no paperwork. We were looking to become a suspended county within a termination state.

**Follow through:**

No follow through needed.

1. What does this mean for inmates?

<https://www.dhs.wisconsin.gov/news/releases/101620.htm>

**Discussion:**

In early October 2020, Wisconsin switched to become a suspended state. Benefits will automatically go back in place upon release. This will save time, money and frustration for the newly released.

**Follow through:**

No follow through needed.

C. Update from Sheriff's Office on COVID-19 Mitigation Efforts Within the Jail

**Discussion:**

Sandra LaDu, Jail Administrator – Covid is a day to day situation. New arrivals are tested. The first person that tested positive in the jail was at the end of July. Everyone was tested and he was the only person that came back positive. (28 possible) – Since July there had been about 8 with varying symptoms or were a-symptomatic. All recovered.

Last Thursday, an inmate in the long term pod tested positive and they tested 56 people. Forty tested positive in the jail. They have various medical staff available for all levels of COVID. On October 23 all are doing well. Staff have tested positive. Officers have no contact with other shifts.

If we would have a staffing issue, there is a plan to go down to minimums. We have some flexibility to

pull staff from the juvenile facilities, if necessary.

**Follow through:**

No follow through needed.

**D. Status of the District Attorney's Office in light of the County's Prioritization and Upcoming Judicial System Changes**

**Discussion:**

Theresa Wetzsteon, District Attorney for Marathon County - Building off the OWI court discussion. She feels there is a line drawn in the sand that prosecutors are state employees and the county is not going to let the State of Wisconsin shirk its responsibilities when it comes to staff.

For the past two years the DA has been asking for additional positions (1 Assistant District Attorney and 1 legal secretary) to be paid for by the County. There has not been funding for those positions either year. No new County positions were approved for the 2021 budget.

Looking for funding for her positions, the D.A. pointed out that the County is spending \$165,000 each year for OWI Court on 5<sup>th</sup> and 6<sup>th</sup> offenders who are on their way to prison. If sent to prison, the state would be responsible for these offenders. It's the state's dime. By working with 5<sup>th</sup> and 6<sup>th</sup> offenders the County is supplementing the state with county tax levy dollars and county resources on a regular basis. It's a double standard.

The DA's office workload is increasing due to body cameras and Marsy's Law and now we will get a 6<sup>th</sup> court branch.

Non-mandatory programs that DA personnel participate in, such as the Restorative Justice program, will be a program her staff won't be participating in any longer. She also points out that the SSTOP (Safe Streets Treatment Options Program) costs \$118,000 per year of tax levy funds. Is it a smart allocation of her resources to participate in and maintain integrity of the program? She does not support continuation of this program.

Supervisors have the option to amend the budget at County Board. There is a form that was sent out to complete. County Board Chair Gibbs pointed out that all programs need to be looked at. Prior to the pandemic there was going to be a system-wide review of all programs. There hasn't been enough staff for this. We cannot, especially at the last minute, put one program against another. We need to look at the total picture.

In the future we are going to look at system budgeting, which may help and also Priority Based Budgeting.

**Follow through:**

No follow through needed.

**7. Next Meeting Time, Location, Announcements and Agenda Items**

- A. Next meeting: December 2, 2020 at 2:00 p.m.
- B. Announcements: None

**8. Adjournment**

**MOTION BY MASZK; SECOND BY OPALL TO ADJOURN THE MEETING. MOTION CARRIED.  
(3:36 pm)**

Respectfully submitted by,  
Mary Palmer

## CHAPTER 9 – PUBLIC PEACE AND GOOD ORDER

### IN GENERAL

#### Sec. 9.01 – Scope, Authority, and Penalties Applicable within this Chapter.

- (1) **Scope.** The Ordinances within Chapter 9 of the Marathon County General Code define offenses against the peace and good order of the State of Wisconsin and residents of Marathon County, or otherwise prohibit conduct that is the same as or similar to that provided by criminal law statutes within the State of Wisconsin.
- (2) **Authority.** The Ordinances within Chapter 9 of the Marathon County General Code are enacted pursuant to the authority delegated to Marathon County pursuant to Wis. Stat. § 59.54(6) and (22), unless otherwise specified.
- (3) **Penalties.** Unless a specific penalty provision is otherwise prescribed for a particular violation, any person found to be in violation of any provision of this chapter, or any order, rule or regulation made hereunder, shall be subject to a penalty as provided in § 25.04 of this General Code.
- (4) **Prosecution.** Pursuant to Wis. Stat. § 978.05(2), the Marathon County District Attorney shall have authority to prosecute all offenses in this Chapter that prohibit conduct that is the same or similar to conduct prohibited by state laws within the District Attorney’s jurisdiction.

Commented [MP1]: Beyond the addition of individual ordinances, the largest change is in the numbering and organization of the ordinances. Offenses have been grouped by category, starting with an ordinances of general applicability to the entire chapter.

Commented [MP2]: The scope section was drafted to allow the chapter to conform with 59.54(6) and (22)

Commented [MP3]: Instead of individually listing authority in each section, I noted the general authority to prohibit conduct against peace and good order and/or substantially similar to criminal offenses.

Commented [MP4]: Moved the penalty section to the beginning and noted its general applicability to the entire chapter unless otherwise noted

Commented [MP5]: Language consistent with 978.05

### PART I – OFFENSES AGAINST THE PERSON

#### Sec. 9.11 - **Battery**

No person shall cause bodily harm to another by an act done with intent to cause bodily harm to that person or another without consent of the person so harmed.

Commented [MP6]: This is an entirely new provision modeled after 940.19(1). This was requested by MCSO to give deputies more flexibility in the field by adding additional enforcement options.

#### Sec. 9.12 – **Harassment**

- (1) *Course of conduct.* In this section, “course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.
- (2) No person shall, with intent to harass or intimidate another person, do any of the following:
  - i. Strike, shove, kick, or otherwise subject a person to physical contact or threaten to do the same.
  - ii. Engage in a course of conduct or repeatedly commit acts which harass or intimidate a person and which serve no legitimate purpose.

Commented [MP7]: This is an entirely new provision modeled after 947.013(1m). This was requested by MCSO to give deputies more flexibility in the field by adding additional enforcement options.

PART II – PRESERVATION OF PUBLIC PEACE AND GOOD ORDER

**Sec. 9.21. - Disorderly conduct.**

No person shall, in a public or private place, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

Commented [MP8]: This has not changed other than being renumbered

**Sec. 9.22. - Disorderly conduct with a motor vehicle.**

- (1) *Definitions.* In this section, a motor vehicle shall mean any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, water or ice.
- (2) No person shall in a public or private place operate a motor vehicle in an abusive, boisterous, unreasonably loud or otherwise disorderly manner under circumstances which tend to cause or provoke a disturbance. Such conduct shall include, but not be limited to because of enumeration, conduct which tends to disturb, annoy or endanger one or more individuals because of unnecessary or deliberate spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing engine to backfire or causing vehicle while commencing to move or in motion to raise one or more of its wheels, tracks or skis off the ground or operate at an unreasonable or imprudent speed.

Commented [MP9]: This has not changed other than being renumbered

**Sec. 9.23 – Resisting or Obstructing an Officer**

- (1) *Definitions.* In this section:
  - (a) “Obstruct” includes without limitation knowingly giving false information to an officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty, including the service of any summons or civil process.
  - (b) “Officer” means a peace officer or other public officer or public employee having the authority by virtue of the officer’s or employee’s office or employment to take another into custody.
- (2) No person shall knowingly resist or obstruct an officer while such officer is doing any act in an official capacity and with lawful authority.

Commented [MP10]: This is an entirely new provision modeled after 946.41. This was requested by MCSO to give deputies more flexibility in the field by adding additional enforcement options.

PART III – OFFENSES AGAINST PROPERTY

**Sec. 9.31 – Damage to Property**

No person shall intentionally cause damage to any physical property of another without the person’s consent.

Commented [MP11]: This is an entirely new provision modeled after 943.01. This was requested by MCSO to give deputies more flexibility in the field by adding additional enforcement options.

**Sec. 9.32 - Theft**

No person shall intentionally take and carry away, use, transfer, conceal, or retain possession of moveable property of another without the owner's consent and with intent to deprive the owner permanently of possession of such property.

Commented [MP12]: This is an entirely new provision modeled after 943.20. This was requested by MCSO to give deputies more flexibility in the field by adding additional enforcement options.

**Sec. 9.33. - Retail theft.**

(1) *Definitions.* In this section,

- (a) Merchant includes any "merchant" as defined in Wis. Stat. § 402.104(3), or any innkeeper, motelkeeper or hotelkeeper.
- (ar) Theft detection device means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.
- (as) Theft detection device remover means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (at) Theft detection shielding device means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

Commented [MP13]: This has not changed other than being renumbered

(b) Value of merchandise means:

1. For property of the merchant, the value of the property; or
2. For merchandise held for resale, the merchant's stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant's stated price, the difference between the merchant's stated price of the merchandise and the altered price.

(2) No person may do any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

- (a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.
- (b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.

- (c) Intentionally transfers merchandise held for resale by a merchant or property of a merchant.
- (d) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.
- (e) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.
- (f) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (g) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.
- (h) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(3) In addition to the penalties provided for violation of this section in Section 25.04 of this General Code of Ordinances, a judge may order a violator to make restitution under Wis. Stat § 800.093.

**Sec. 9.34. - Issuance of worthless checks.**

- (1) No person shall issue any check or other order for the payment of money which at the time of issuance he intends shall not be paid.
- (2) Any of the following is prima facie evidence that the person at the time he issued the check or other order for the payment of money intended it should not be paid:
  - (a) Proof that at the time of issuance the person did not have an account with the drawee.
  - (b) Proof that at the time of issuance the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
  - (c) Proof that when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.

Commented [MP14]: This has not changed other than being renumbered



- (3) This section does not apply to postdated checks or to a check given for a past consideration, except a payroll check.
- (4) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under § 973.20, Wis. Stats. A victim may not be compensated under that section and § 943.245, Wis. Stats.
- (5) Violation of this section shall be prosecuted by the office of the District Attorney.

**Sec. 9.35 Trespass**

- (1) *Trespass to Land*
  - (a) No person shall:
    - i. Enter into any enclosed, cultivated or undeveloped land of another, other than undeveloped land specified in this Section, without the express or implied consent of the owner or occupant.
    - ii. Enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on the land.
    - iii. Enter any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.
    - iv. Enter or remain on undeveloped land that is an inholding of another after having been notified by the owner or occupant not to enter or remain on the land.
    - v. Enter undeveloped private land from an abutting parcel of land that is owned by the United States, this state or a local governmental unit, or remain on such land, after having been notified by the owner or occupant not to enter or remain on the land.
    - vi. Erect on the land of another signs which are the same as or similar to those described in subsection (6) without obtaining the express consent of the lawful occupant of or holder of legal title to such land.
  - (b) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.
  - (c) This section does not apply to any of the following:
    - i. A person entering the land, other than the residence or other buildings or the curtilage of the residence or other building, of another for the purpose of removing a wild animal as authorized under §§ 29.59(2), (3) or (4), Wis. Stats., or successor statutes.
    - ii. A hunter entering land that is required to be open for hunting under §§ 29.59(4m) or 29.598(7m), Wis. Stats., or their successor statutes.
  - (d) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with the occupant in the housing area the occupant occupies.

Commented [MP15]: This is an entirely new provision modeled after 943.213 and 14 and was requested by MCSO to give deputies more flexibility in the field by adding additional enforcement options.

- (e) In determining whether a person has implied consent to enter the land of another a trier of fact shall consider all of the circumstances existing at the time the person entered the land, including all of the following:
    - i. Whether the owner or occupant acquiesced to previous entries by the person or by other persons under similar circumstances.
    - ii. The customary use, if any, of the land by other persons.
    - iii. Whether the owner or occupant represented to the public that the land may be entered for particular purposes.
  - (f) A person has received notice from the owner or occupant within the meaning of this section if he or she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted under this subsection under either of the following procedures:
    - i. If a sign at least 11" square is placed in at least two conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. None of the colors used in the sign may be blaze orange. Proof that appropriate signs as provided in this paragraph were erected or in existence upon the land to be protected prior to the event complained of shall be prima facie proof that the land to be protected was posted as provided in this paragraph.
    - ii. If markings in a color other than blaze orange and at least one-foot long, including in a contrasting color other than blaze orange the phrase "private land" and the name of the owner, are made in at least two conspicuous places for every 40 acres to be protected.
  - (g) An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of this section for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions
- (2) *Trespass to Dwellings.*
- (a) In this section, "dwelling" means a structure or a part of a structure that is used or intended to be used as a home or residence by one or more persons to the exclusion of all others. For the purposes of this section, a dwelling meets that definition regardless of whether the dwelling is currently occupied by a resident.
  - (b) No person may intentionally enter or remain in the dwelling of another without the consent of some person lawfully upon the premises or, if no person is lawfully on the premises, without the consent of the owner of the property that includes the dwelling, under circumstances tending to create or provoke a breach of the peace.

**Sec. 9.36 – Abandoned Vehicles**

- (1) *Definitions.*

Commented [MP16]: This is an entirely new provision requested by MCSO. The provision would enable deputies to more adequately respond to abandoned vehicles in business parking lots.

(a) “Vehicle” as used in this section includes any motor vehicle, trailer, semitrailer, mobile home, or any other motor vehicle as defined in Wis. Stat. § 340.01(35).

(2) *Authority.* This section is enacted pursuant to Wis. Stat. § 342.40(3).

(3) *Abandoned vehicles prohibited.* No person shall leave unattended any vehicle on any public highway, private or public property or in or on any waters within Marathon County for more than forty-eight (48) hours, unless that person has obtained the permission of the landowner or the Marathon County Sheriff or his or her designee. A vehicle is presumed to be abandoned if it has been left unattended without the permission of the property owner or the Marathon County Sheriff, or his or her representative, for more than forty-eight (48) hours or if other indicia of abandonment is apparent.

#### PART IV – OFFENSES INVOLVING MINORS

##### **Sec. 9.41. - Violations of alcohol beverage laws by underage persons.**

Commented [MP17]: This has not changed other than being renumbered.

- (1) *Definitions.* For the purposes of this section, the following terms have the following meanings:
- (a) *Adult* means a person who has obtained the age of 17 years old or older.
  - (b) *Control* means the power to direct, manage, oversee, supervise, organize, conduct, and shall also mean, hosting, allowing or permitted or sponsoring. A person need not be present on the premises to be in control.
  - (c) *Knowingly permit* means there must be evidence or a reasonable inference from evidence that the person knew or should have known that consumption of alcoholic beverages would occur.
  - (d) *Premises* shall have the meaning under 125.02(14m), Wis. Stats., and shall also include all public or private property, regardless of whether said property is described in a license or permit.
- (2) *Providing alcohol beverages to underage persons.*
- (a) *Restrictions.*
    - i. No person may procure for, sell, dispense or give away alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
    - ii. No license or permittee shall sell, vend, deal or traffic any alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
    - iii. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as a part of a religious service.

- iv. No adult may intentionally encourage or contribute to a violation of par. (1) of this ordinance or § 125.07(4)(a) or (b), Wis. Stats.
  - (b) *Penalties.* Section 125.07(1)(b), Wis. Stats., providing penalties for violations of this subsection, is specifically adopted as now written or may be subsequently amended, repealed, created or recreated or renumbered and is incorporated herein by reference.
- (3) *Underage persons.*
- (a) *Restrictions.* No person under the legal drinking age shall consume, possess, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverages or loiter upon the premises of any business establishment licensed for the sale of intoxicating liquor or fermented malt beverages in violation of Ch. 125, Wis. Stats., or any amendments or revisions thereto.
  - (b) *Penalties.* Penalties for violation of this section shall be as specified in Ch. 125, Wis. Stats., including any amendments or revision thereto. Section 938.17(2), Wis. Stats., including any revisions and amendments thereto, is hereby adopted by reference.

**Sec. 9.42. - Minor pornography.**

- (1) *Prohibited.* No person shall, within the County, knowingly engage in either the public or private business of selling to minors; lending, giving away, showing to or distributing to minors for a monetary consideration; advertising for sale to minors; or placing for sale in such a location so as to allow a minor to buy, handle, read, hear or view any obscene motion picture, live show, sound recording, still picture, photograph, book, magazine, pocket book or pamphlet, the cover or content of which exploits, is devoted to or is principally made up of descriptions or depictions of illicit sex, sexual immorality, sexual conduct, sexual excitement or sado-masochistic abuse or which consists of pictures of a nude human being or partially nude human beings, posed or presented in such a manner so as to provoke or arouse lust, passion or exploit sexual lust or perversion. A work shall be considered obscene if an average person applying contemporary County standards would find that the work, taken as a whole, appeals to the prurient interest in sex or portrays sexual conduct in a patently offensive way and, if taken as a whole, does not have serious literary, artistic, political or scientific value.
- (2) *Definitions.* For the purposes of this section, the following terms shall have the meanings indicated:
  - (a) *Acts knowingly.* A person acts knowingly if he has general knowledge of, or reason to know of, a belief or ground for belief which warrants further inspection or inquiry of the character and content of any material described herein which is reasonably susceptible of examination.
  - (b) *Descriptions or depictions of illicit sex or sexual immorality.*
    - i. Human genitals in the state of sexual stimulation or arousal.

Commented [MP18]: This has not changed other than being renumbered.

- ii. Acts of human masturbation, sexual intercourse or sodomy, fondling or otherwise erotic touching of human genitals, pubic region, buttocks or female breast.
  - (c) *Minor*. Any person under the age of 18 years at the time the illegal act occurs.
  - (d) *Nude or partially nude*. Less than completely opaquely covered human genitals, public region, buttocks, female breast below the point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely or opaquely covered.
  - (e) *Sado-masochistic abuse*. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
  - (f) *Sexual conduct*. Acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, public area, buttocks or, if such person is a female, her breast.
  - (g) *Sexual excitement*. Human male or female genitals in a state of sexual stimulation or arousal.
  - (h) *Terms, all other*. All other terms, words or phrases used in this section shall have the meaning as commonly understood within County.
- (3) *Determination of age*. Each person who deals in such products or items as referred to in this section shall have the sole responsibility to personally ascertain the true age of each person to whom he or she makes such items available. To do so such person shall be expected to rely upon an official Wisconsin identification card as distributed through the office of the Register of Deeds of the various counties of Wisconsin.
- (4) *Penalty*. Any person violating this section shall, upon conviction, pay a forfeiture of not less than \$250.00 nor more than \$1,500.00, plus costs per day for each day a violation continues. Forfeitures for second and subsequent offenses shall be not less than \$500.00 nor more than \$2,500.00, plus costs per day for each day a violation continues.

**Sec. 9.43. - Truancy**

- (1) Any school-aged child is prohibited from being a habitual truant as that term is defined in § 118.16(1)(a), Wis. Stats., or its successor statute.
- (2) In this section, "habitual truant" means a pupil who is absent from his/her school without an acceptable excuse pursuant to the above referenced statute for part or all of five or more days during a school semester.
- (3) Upon a finding of habitual truancy, the court is authorized to enter a Dispositional Order containing some or all of the terms and conditions authorized by § 118.163, Wis. Stats and/or § 938.342, Wis. Stats., or their successor statutes, including, but not limited to:
  - (a) Suspension of the child's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any

Commented [MP19]: This has not changed other than being renumbered, except as further outlined below

suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.

- (b) An order for the child to participate in counseling, community service, or a supervised work program as described in § 938.34(5g), Wis. Stats. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parent or guardian of the person or both.
  - (c) An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his/her home if the child is accompanied by a parent or guardian.
  - (d) An order for the child to attend school or an educational program as described in § 938.74(7d), Wis. Stats., or its successor statute.
  - (e) Order the department of industry, labor and job development to revoke, under § 103.72, Wis. Stats., a permit under § 103.70, Wis. Stats., authorizing the employment of the person.
  - (f) Order the person to be placed in a teen court program as described in § 938.342(1g)(f), Wis. Stats., or its successor statute.
  - (g) A forfeiture of not more than \$500.00 plus costs, subject to § 938.37, Wis. Stats. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
  - (h) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
  - (i) An order placing the person under formal or informal supervision, as described in § 938.34(2), Wis. Stats., for up to one year.
  - (j) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
- (4) *School attendance.* No person shall, having under his/her control a child who is between the ages of six and 18 years, allow that child to be in noncompliance with § 118.15, Wis. Stats., or its successor statute.
- (5) *Contributing to truancy.* No person 17 years of age or older, by any act or omission, shall knowingly encourage or contribute to the truancy of a child. An

Commented [MP20]: This is a new subsection requested by MCSO to provide deputies more enforcement options. It mirrors 948.45.

act or omission contributes to the truancy of a child, whether or not the child is so adjudged if the natural and probable consequences of that act or omission would be to cause the child to be truant.

- (6) Pursuant to § 938.355(6m), Wis. Stats., juveniles found to have violated a municipal habitual truancy ordinance enacted pursuant to Ch. 118, Wis. Stats., or who have been found in need of protection or services under § 938.13(6), Wis. Stats., and who subsequently violate the court's dispositional order may, as a sanction, be placed in secured detention for not more than five days for each violation of the court order.

#### Sec. 9.44. - **Harboring, aiding, abetting and/or assisting minor runaways.**

- (1) No person shall knowingly allow, permit or board any minor child at his residence, business or other property in his control, where the person knows or should have known the minor child to be a runaway, from his parent, guardian or legal custodian.
- (2) No person shall knowingly assist, aid or abet a runaway child to escape apprehension or flee from his parents or authorities including, but not limited to:
  - (a) Provide transportation to such runaway child.
  - (b) Provide money, clothing or any other useful instrument to the runaway child to aid the runaway child in escape.
  - (c) Obstruct by providing false or untrue information regarding the location or plan of the runaway child.
  - (d) Refuse to provide information to law enforcement officers when questioned about the runaway child, which information was known to them at the time and would assist in the apprehension of such runaway child.
  - (e) Assist, aid or abet the runaway child in any other way for the purpose of hindering law enforcement officers or the child's parents, guardian or legal custodian from learning the whereabouts of the child.
- (3) This section does not apply to the recipient of a placement by the Juvenile Court intake staff or the Court, providing that the law enforcement agency who originated the runaway child report is informed of such placement. This section does not apply to any person providing temporary shelter to a runaway for the purpose of protecting the runaway from imminent abuse, provided the person does not withhold information about the whereabouts of the runaway if questioned by law enforcement authorities and reports the whereabouts of a known runaway to law enforcement officers as soon as feasible.

Commented [MP21]: This has not changed other than being renumbered

#### Sec. 9.45 **Purchase or Possession of Cigarettes, Nicotine Products, and Tobacco Products by Juveniles Prohibited**

- (1) *Authority*. This section is enacted pursuant to Wis. Stat. § 254.92(4).
- (2) *Definitions*. In this section, the following words have the definitions given:
  - (a) "Cigarette" has the meaning given in Wis Stat. § 139.30 (1m).

Commented [MP22]: In addition to being renumbered, this section was modified to add a reference to nicotine products, as defined in Wis Stat. 139.30. 254.92(4), the enabling statute, was modified to include the nicotine products language, so this change reflects the updated statute. It also gives deputies additional options to deal with vape pens and other smoking devices.

- (b) "Nicotine product" has the meaning given in Wis. Stat. § 134.66(1)(f).
- (c) "Tobacco products" has the meaning given in Wis. Stat. § 139.75 (12).

Commented [MP23]: added

- (3) No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product.

Commented [MP24]: added

- (2) No person under 18 years of age may purchase, attempt to purchase, or possess any cigarette, nicotine product, or tobacco product except as follows:

Commented [MP25]: added

- (a) A person under 18 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

Commented [MP26]: added

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

Commented [MP27]: added

- (2m) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 18 years of age. Any person who violates this subsection may be:

Commented [MP28]: added

- (a) Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.

- (b) Fined not more than \$500 or imprisoned for not more than 30 days or both if the person has committed a previous violation within 30 months of the violation.

- (c) Fined not more than \$1,000 or imprisoned for not more than 90 days or both if the person has committed 2 previous violations within 30 months of the violation.

- (d) Fined not more than \$10,000 or imprisoned for not more than 9 months or both if the person has committed 3 or more previous violations within 30 months of the violation.

- (3) A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

Commented [MP29]: added

- (4) This section does not apply within any town, village or city that has adopted or adopts an ordinance pursuant to § 254.92 (4), Wis. Stats.

- (5) The disposition of any juvenile adjudged to have violated this section shall be as set forth in § 938.343, Wis. Stats., or its successor statute.

## PART V – OFFENSES ON OR INVOLVING COUNTY PROPERTY

### **Sec. 9.51. - ~~Smoke-free county buildings, property/grounds.~~**

Commented [MP30]: this has not changed other than being renumbered



- (1) *Authority.* This ordinance is enacted pursuant to the authority granted in §101.123, Wis. Stats. The county administrator is charged with implementing and enforcing this ordinance.
- (2) *Purpose.* It is the purpose of this section to protect the environment and public health and comfort by prohibiting smoking in county facilities, county property and grounds. Numerous studies have found that tobacco smoke is a major contributor of indoor air pollution, and that breathing second-hand smoke (also known as environmental tobacco smoke) is a cause of disease in healthy non-smokers, including heart disease, stroke, respiratory disease and lung cancer.
- (3) *Definitions.* In this section the following terms have the following meanings:
  - (a) *County Building.* Any enclosed space owned or leased by Marathon County. This includes any building or structure intended to be a permanent accession to real property; that is designed for sheltering people, for storing property, or for working, office or parking space; that in physical appearance is annexed to real property, that is covered by a roof and has more than two substantial walls; that is not readily moved or disassembled; and that is commonly known to be a building or structure because of its appearance and because of the materials with which it is constructed.
  - (b) *Designated County Property/Grounds.* Any real property or grounds owned or leased by or under the jurisdiction of Marathon County that has been identified as tobacco-free by signs, placards, etc.
  - (c) *Person in Charge.* Consistent with Marathon County's personnel policy, department heads with primary responsibility for operations performed at the sites listed in paragraph (5)(b), or their designees. The county administrator and the sheriff share responsibility for compliance for the Marathon County Courthouse. The county administrator is responsible for ensuring compliance at the River Drive sites.
  - (d) *Smoking.* The burning or holding, or inhaling or exhaling of smoke from, any of the following items containing tobacco:
    - i. A lighted cigar.
    - ii. A lighted cigarette.
    - iii. A lighted pipe.
    - iv. Any other lighted smoking equipment.
  - (e) *Substantial wall.* A wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall's surface area.
- (4) *Prohibited Conduct.* It is unlawful for any person to smoke in any county building or on designated county property/grounds.
- (5) *Notification to the Public.*
  - (a) All county buildings, designated county property/grounds and county vehicles/equipment shall be posted in accordance with this section and with § 101.123, Wis. Stats.

- (b) The County Administrator has designated as tobacco-free the property/grounds surrounding the county buildings at the following locations:
  - i. Marathon County Courthouse, 500 Forest Street, Wausau
  - ii. 210 and 212 River Drive, Wausau
  - iii. Social Services, 400 East Thomas Street, Wausau
  - iv. Library Headquarters, 300 N. 1<sup>st</sup> Street, Wausau
  - v. Parks Maintenance Shop, 900 Pardee Street, Wausau
  - vi. Capital Facilities Building, 1308 West St., Wausau
  - vii. Marathon County Landfill, 18500 E. Hwy. 29, Ringle
  - viii. All Highway Department facilities (Wausau, Stratford, Mosinee, Hatley, Abbotsford)
  - ix. University of Wisconsin-Marathon County, 518 S. 7<sup>th</sup> Avenue and 625 Stewart Avenue, Wausau
- (c) The County Administrator may make modifications to designated county property/grounds and provide notification to the public as provided above.
- (6) *Enforcement Responsibility.*
  - (a) No person in charge may allow any person to smoke in violation of paragraph (4) at a location that is under the control or direction of the person in charge.
  - (b) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
    - (c) Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
    - (d) Asking the person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
    - (e) If the person refuses to leave the location after being requested to do so as provided in subparagraph 2., the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- (7) *Violation-Penalty Enforcement.* Any person who violates paragraph (4) shall be subject to a forfeiture of not less than \$25.00 nor more than \$50.00 for each violation.
- (8) *Effective date.* This ordinance shall become effective on July 5, 2010.

**Sec. 9.52 – Littering**

- (1) *Definitions.* In this section:
  - (a) “Highway” has the meaning given in Wis. Stat. § 340.01(22).
  - (b) “Vehicle” has the meaning given in Wis. Stat. § 340.01(74).
- (2) No person shall deposit or discharge any garbage, refuse, or litter on or along any highway, in any body of water in the county, on the ice of any body of water of the county, or on any other public or private property.

Commented [MP31]: this is a new section requested by MCSO and enacted pursuant to 59.54(6) to give deputies more enforcement options in the field.

- (3) No person shall permit any garbage, refuse, or litter to be thrown from a vehicle operated by the person.

#### **Sec. 9.53 – Unauthorized Dumping**

No person shall dump, deposit, or cause to be deposited, dropped, placed, discharged, left, spilled, or scattered any hazardous waste, industrial waste, infectious waste, garbage, refuse, or other waste material upon any premises owned or leased by Marathon County.

Commented [MP32]: this is a new section, requested by MCSO and enacted pursuant to 59.54(6) to give deputies more enforcement options in the field.

#### **Sec. 9.54 – Prohibition on Dangerous Items – Marathon County Courthouse**

- (1) *Definitions.*
  - (a) *Prohibited Item.* In this section, a prohibited item is any personal property that poses a danger to the safety and security of persons working or conducting business within the Marathon County Courthouse.
  - (a) *Security checkpoint.* In this section, security checkpoint is defined as the area inside the public entrance of the Marathon County Courthouse where Marathon County Sheriff's Office deputies initiate security screening of persons entering the building.
- (2) No person, except for law enforcement officers on duty at the time of entry, may enter the Marathon County Courthouse beyond the security checkpoint if the person is found to have in their possession a prohibited item. Marathon County Sheriff's Office deputies are authorized to use discretion to determine whether an item meets the definition of a prohibited item for the purposes of this section.
- (3) Any person found to have intentionally carried or possessed a prohibited item beyond the security checkpoint of the Marathon County Courthouse, after being provided written or verbal notice upon entry into the Courthouse that said item is prohibited under this section, shall be subject to a forfeiture as outlined in Section 25.04 of the General Code.

Commented [MP33]: This is a new section, requested by MCSO to codify the safety and security policies related to the courthouse screening process

### SECTION VI – ALCOHOL, TOBACCO, AND NICOTINE

#### **Sec. 9.61 Allowing Patrons to Smoke on Premises**

- (1) *Authority.* This section is enacted pursuant to Wis. Stat. § 101.123(4m).
- (2) No person who controls, governs, or directs the activities at a location where smoking is prohibited or regulated under Wis. Stat. § 101.123 may allow any person to smoke at the prohibited or regulated location.
- (3) *Penalty.*

Commented [MP34]: This was added per request of MCSO to give deputies clearer enforcement options for these violations. The penalty provisions mirror state law as required.

- (a) *Warning notice.* If a person who violates this section has not previously received a warning notice for a violation of (2), that person shall receive a written warning notice regarding the violation and is not subject to a forfeiture.
- (b) Any person who violates this section after previously receiving a warning under (3)(a) shall be subject to a forfeiture of \$100 for each violation. No person may be required to forfeit more than \$100 in total for all violations of this section occurring on a single day.
- (4) *Enforcement.* This section may be enforced by the issuance of citations as allowed in sec. 25.04(4) of this General Code of Ordinances.

**Sec. 9.62. - Curfew on possession and/or consumption of liquor and malt beverages on public access sites to waters.**

Commented [MP35]: This has not changed except for being renumbered

During the period from 6 p.m. on April 1 to 6 a.m. on May 15 of each year, no person may possess containers of intoxicating liquor or fermented malt beverages or consume intoxicating liquor or fermented malt beverages while on or within the boundaries of public access sites to waters within the County when such sites are posted with notice of this curfew and restriction. This curfew shall only apply between the hours of 6 p.m. to 6 a.m. the following day. The phrase "on or within the boundaries of public access sites to waters" is defined as an improved or clearly established public area, such as a road or parking lot, which is upon or connected to a public road and which leads to the edge of the water.

**Sec. 9.63. - Restrictions on sale or gift of cigarettes or nicotine or tobacco products.**

Commented [MP36]: The only change in this section was to add the reference to nicotine products

- (1) *Definitions.* In this section:
  - (a) "Cigarette" has the meaning given in s. 139.30 (1m).
  - (am) "Direct marketer" has the meaning given in s. 139.30 (2n).
  - (b) "Distributor" means any of the following:
    - 1. A person specified under s. 139.30 (3).
    - 2. A person specified under s. 139.75 (4).
  - (c) "Identification card" means any of the following:
    - 1. A license containing a photograph issued under ch. 343.
    - 2. An identification card issued under s. 343.50.
    - 3. An identification card issued under s. 125.08, 1987 stats.
    - 4. A tribal identification card, as defined in s. 134.695 (1) (cm).
  - (d) "Jobber" has the meaning given in s. 139.30 (6).
  - (e) "Manufacturer" means any of the following:
    - 1. A person specified under s. 139.30 (7).
    - 2. A person specified under s. 139.75 (5).
  - (f) "Nicotine product" means a product that contains nicotine and is not any of the following:
    - 1. A tobacco product.
    - 2. A cigarette.

3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.

Commented [MP37]: Added pursuant to statutory definition

- (g) "Retailer" means any person licensed under s. 134.65 (1).
- (h) "School" has the meaning given in s. 118.257 (1) (d).
- (hm) "Stamp" has the meaning given in s. 139.30 (13).
- (i) "Subjobber" has the meaning given in s. 139.75 (11).
- (j) "Tobacco products" has the meaning given in s. 139.75 (12).
- (k) "Vending machine" has the meaning given in s. 139.30 (14).
- (L) "Vending machine operator" has the meaning given in s. 139.30 (15).

(2) *Restrictions.*

(a) No retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person under the age of 18, except as provided in s. 254.92 (2) (a). A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products, or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

Commented [MP38]: added

(am) No retailer, direct marketer, manufacturer, distributor, jobber, subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

Commented [MP39]: added

(b)

1. A retailer shall post a sign in areas within his or her premises where cigarettes, nicotine products, or tobacco products are sold to consumers stating that the sale of any cigarette, nicotine product, or tobacco product to a person under the age of 18 is unlawful under this section and s. 254.92.

Commented [MP40]: added

Commented [MP41]: added

2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette, nicotine product, or tobacco product by a person under the age of 18 is unlawful under s. 254.92 and that the purchaser is subject to a forfeiture of not to exceed \$50.

Commented [MP42]: added

(cm)

1m. A retailer or vending machine operator may not sell cigarettes, nicotine products, or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to

Commented [MP43]: added

enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

2. Notwithstanding subd. 1m., no retailer may place a vending machine within 500 feet of a school.

(e) No retailer or direct marketer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32 (1).

(2m) *Training.*

(a) Except as provided in par. (b), at the time that a retailer hires or contracts with an agent, employee, or independent contractor whose duties will include the sale of cigarettes, nicotine products, or tobacco products, the retailer shall provide the agent, employee, or independent contractor with training on compliance with sub. (2) (a) and (am), including training on the penalties under sub. (4) (a) 2. for a violation of sub. (2) (a) or (am). The department of health services shall make available to any retailer on request a training program developed or approved by that department that provides the training required under this paragraph. A retailer may comply with this paragraph by providing the training program developed or approved by the department of health services or by providing a comparable training program approved by that department. At the completion of the training, the retailer and the agent, employee, or independent contractor shall sign a form provided by the department of health services verifying that the agent, employee, or independent contractor has received the training, which the retailer shall retain in the personnel file of the agent, employee, or independent contractor.

Commented [MP44]: added

(b) Paragraph (a) does not apply to an agent, employee, or independent contractor who has received the training described in par. (a) as part of a responsible beverage server training course or a comparable training course, as described in s. 125.04 (5) (a) 5., that was successfully completed by the agent, employee, or independent contractor. The department of health services shall make the training program developed or approved by that department under par. (a) available to the technical college system board, and that board shall include that training program or a comparable training program approved by that department in the curriculum guidelines specified by that board under s. 125.04 (5) (a) 5. The department of health services shall also make the training program developed or approved by that department under par. (a) available to any provider of a comparable training course, as described in s. 125.04 (5) (a) 5., on request, and the department of revenue or the department of safety and professional services may approve a comparable training course under s. 125.04 (5) (a) 5. only if that training course includes the training program developed or approved by the department of health services under par. (a) or a comparable training program approved by that department.

(c) If an agent, employee, or independent contractor who has not received the training described in par. (a) commits a violation of sub. (2) (a) or (am), a governmental regulatory authority, as defined in s. 254.911 (2), may issue a citation based on that violation only to the retailer that hired or contracted with the agent, employee, or independent contractor and not to the agent, employee, or independent contractor who

has not received that training. If an agent, employee, or independent contractor who has received the training described in par. (a) commits a violation of sub. (2) (a) or (am) for which a governmental regulatory authority issues a citation to the retailer that hired or contracted with the agent, employee, or independent contractor, the governmental regulatory authority shall also issue a citation based on that violation to the agent, employee, or independent contractor who has received that training.

(3) *Defense; Sale to Minor.* Proof of all of the following facts by a retailer, manufacturer, distributor, jobber, or subjobber, an agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber, or an agent or employee of an independent contractor who sells cigarettes, nicotine products, or tobacco products to a person under the age of 18 is a defense to any prosecution, or a complaint made under s. [134.65 \(7\)](#), for a violation of sub. [\(2\) \(a\)](#):

Commented [MP45]: added

(a) That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.

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

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

(4) *Penalties.*

(a)

1. In this paragraph, "violation" means a violation of sub. (2) (a), (am), (cm), or (e) or a local ordinance which strictly conforms to sub. (2) (a), (am), (cm), or (e).

2. A person who commits a violation is subject to a forfeiture of:

a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or

b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

3. A court shall suspend any license or permit issued under s. 134.65, 139.34 or 139.79 to a person for:

a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;

b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 or more other violations.

4. The court shall promptly mail notice of a suspension under subd. 3. to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

(b) Whoever violates sub. (2) (b) shall forfeit not more than \$25.

(5) Local ordinance. This section does not apply within any town, village or city that has adopted or adopts an ordinance under this subsection pursuant to § 134.66(5), Wis. Stats., or its successor statute.

#### Sec. 9.64 – Closing Hours

- (1) This section is enacted pursuant to Wis. Stat. §§ 59.54(6), 125.10(1), and 125.32(3)(d).
- (2) No business or premises licensed or permitted to sell alcohol beverages pursuant to Wis. Stat. Chapter 125 may remain open beyond the closing hours set forth in Wis. Stat. § 125.32 (3).
- (3) No business or premises licensed or permitted to sell alcohol beverages pursuant to Wis. Stat. Chapter 125 may allow patrons to remain within the business or premises beyond the closing hours set forth in Wis. Stat. § 125.32 (3).
- (4) Subsection (3) does not apply to any permittee, licensee, employee, salesperson, employee of wholesaler, or service personnel on the premises to perform job-related activities.

Commented [MP46]: this is a new section requested by MCSO to provide a specific enforcement mechanism for this type of violation

### SECTION VII – CONTROLLED SUBSTANCES

#### Sec. 9.71 - Possession of Marijuana/Synthetic Cannabinoids and Drug Paraphernalia

- (1) This section is enacted pursuant to Wis. Stat §§ 59.54(25), (25g), and (25m).
- (2) Any person possessing 25 grams or less of marijuana, as defined in § 961.01(14), Wis. Stats., or its successor statute, or any synthetic cannabinoids, as defined in § 961.14(4)(tb), Wis. Stats., or its successor statute, and subject to the exceptions set forth in § 961.41(3g), Wis. Stats., or its successor statute, shall be subject to a forfeiture as set forth in § 25.04 of this Code.
- (3) Any person using or possessing drug paraphernalia, as defined in § 961.571(1), Wis. Stats., or its successor statute, with the primary intent to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analog, shall be subject to a forfeiture as set forth in § 25.04 of this Code.
- (4) Exceptions.

Commented [MP47]: Per MCSO request, (4), which did not allow the use of this ordinance for persons already convicted for possession of drug paraphernalia, was replaced.

Commented [MP48]: Synthetic cannabinoids were added per 59.52(25g)

Commented [MP49]: This section is added to be consistent with state law and 59.54(25) and (25g).



- a. This section is not applicable to any person charged with possession of more than 25 grams of marijuana.
  - b. If a complaint is issued regarding an allegation of possession of any amount of marijuana following conviction in this state for the possession of marijuana, the subject of that complaint may not be prosecuted under this section unless (1) the charges for violating the state statute are dismissed or the district attorney declines to prosecute the case, and (2) the city, village, or town with jurisdiction over the action has no ordinance enacted under Wis. Stat. § 66.0107(1)(bm) in effect or the city, village, or town with jurisdiction over the action has declined to prosecute or has dismissed the charges for violation of the ordinance enacted under Wis. Stat. § 66.0107(1)(bm).
- (5) This section applies in every municipality within the county.

PART VIII – ANIMAL CONTROL

**Sec. 9.81. - Shining animals.**

Commented [MP50]: No change beyond renumbering

- (1) *Definitions.*
  - (a) *Department.* The State Department of Natural Resources.
  - (b) *Flashlight.* A battery operated light designed to be carried and held by hand.
  - (c) *Light.* Includes flashlights, automobile lights, spotlights and other lights.
  - (d) *Peace officer.* The meaning designated under § 939.22(22), Wis. Stats.
  - (e) *Shining.* The illumination or attempted illumination of a field, forest or other area by means of light as defined herein for the purpose of locating or attempting to locate wild animals.
- (2) *Presumption.* A person shining a field, forest or other area frequented by wild animals is presumed to be shining wild animals. This presumption may be rebutted by competent evidence to the contrary.
- (3) *Shining deer or bear while hunting or possessing weapons.*
  - (a) *Prohibition.* No person may use or possess with intent to use a light for shining deer or bear while the person is hunting deer or bear or in possession of a firearm, bow and arrow or crossbow and arrow.
  - (b) *Exceptions.* This subsection does not apply to:
    - i. A peace officer acting in his official capacity.
    - ii. An employee of the Department acting in his official capacity.
    - iii. A person authorized by the Department to conduct a game census.
- (4) *Shining wild animals while hunting or possessing weapons.*
  - (a) *Prohibition.* No person may use or possess with intent to use a light for shining wild animals while the person is hunting or in possession of a firearm, bow and arrow or crossbow and arrow.
  - (b) *Exception.* This subsection does not apply to:
    - i. A peace officer acting in his official capacity, an employee of the Department acting in his official capacity or a person authorized by the Department to conduct a game census.

- ii. A person who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animals hunted.

(5) *Shining wild animals after 10 p.m.*

(a) *Prohibition.* No person may use or possess with intent to use a light for shining wild animals between 10 p.m. and 7 a.m.

(b) *Exception.* This subsection does not apply:

- i. To a peace officer acting in his official capacity, an employee of the Department acting in his official capacity or a person authorized by the Department to conduct a game census.
- ii. To a person who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animals hunted.
- iii. To a person who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or other unprotected animals.
- iv. If rules promulgated by the Department specifically permit a person to use or possess a light for shining wild animals during these times.

**Sec. 9.62 - Animal control.**

Commented [MP51]: No change beyond renumbering

(1) *Animal control.*

(a) No person shall own or keep a dog and allow such dog to run at large. A dog shall be considered as running at large when it is not on the premises of the owner, unless it is on a leash, or being exercised, is in a motor vehicle, or is on property of another who does not object to the presence of the animal.

(b) No person shall own or keep a dog and allow such dog to disturb other people by frequent or habitual howling, barking or yelping. The provision of this section shall not apply to licensed animal kennels, shelters, or hospitals.

(c) This section shall not apply to incorporated cities or villages or to townships enacting an ordinance pursuant to § 60.23(30), Wis. Stats., or its successor statute.

(d) Any person violating the provisions of this section shall be penalized as provided by § 25.04 of this Code. Enforcement shall be by citation. Violation of the section shall be prosecuted by the Office of Corporation Counsel.

(2) *Applicable state statutes.*

(a) State of Wisconsin certified Humane Officers employed by the agency designated by contract with Marathon County to operate an animal shelter on behalf of Marathon County shall be designated as Humane Officers for purposes of Wisconsin Statutes, Chapter 173, and this section shall have all investigative and enforcement authority specified in Wisconsin Statutes, Chapter 173, including the authority to issue abatement

orders pursuant to § 173.11, Wis. Stats. This designation is made pursuant to § 173.03(2), Wis. Stats.

(b) The hearing authorized by § 173.11(3), Wis. Stats., to review abatement orders, if requested, shall be heard by the County Administrator or any other County officers or officials appointed by the County Administrator to so act on a per hearing basis.

(c) Wisconsin Statutes, Chapter 173, or its successor statute, is incorporated herein by specific reference.

## PART VII – UNIFORM ADDRESSING

### **Sec. 9.70. - Uniform addressing system.**

Commented [MP52]: No change beyond renumbering

(1) Title. This ordinance [section] is created as the Marathon County Uniform Addressing System Ordinance.

(2) Purpose. This ordinance [section] is enacted for the purpose of establishing and maintaining a county addressing system for Marathon County that defines policies and administrative procedures related to the naming of roads, signing of roads, assigning of addresses, location of address signs, and ongoing maintenance of the system. The intent of this addressing system is to assign each location a unique address which will aid emergency personnel in providing fire protection, emergency medical services, and law enforcement services; and meet other general locational needs such as delivery services of the public. Implementation of the county addressing system will advance the Marathon County Strategic Plan by providing leadership among state, regional, and local public and private entities responsible for safety and emergency response services.

(3) Authorization. This ordinance [section] is enacted under the authority granted to the County in § 59.54(4) and (4m) Wisconsin Statutes.

(4) Application. The provisions of this section shall apply to each road, home, business, farm, structure, or other establishments in the unincorporated areas of the County. Incorporated areas are exempt from this section unless otherwise indicated in any adopted intergovernmental agreement.

(5) Administration.

(a) The policy implementation and tracking of outcomes shall be provided by the Public Safety Committee.

(b) The administrative responsibility of this section shall be administered by the Conservation, Planning, and Zoning (CPZ) Department. CPZ will provide an annual report to the Public Safety Committee which tracks the implementation of the county addressing system relative to policy outcomes, strategic plan objectives, and indicators of success.

(c) The CPZ Director or designee shall have the responsibilities of coordinating the ongoing maintenance of the system. These duties shall include: assignment of addresses, maintenance of an accurate road name listing, update of maps, management of address sign installations, and enforcement of the provisions of this ordinance.

(d) Fee schedule. See department fee schedule as approved by the Public Safety Committee.

(6) Definitions.

(a) Address Sign. An individual address plate placed on a named road or driveway identifying a location address.

(b) Application Form. The form required for assignment of a new address.

(c) Private Road. Any road on private property leading to three or more driveways and/or principle structures.

(d) Road Sign. A sign posted at a road intersection that identifies the road name(s).

(7) Uniform addressing requirements.

(a) County Addressing Grid System.

(1) Marathon County shall establish a uniform addressing grid.

(b) Road Naming Selection. The following uniform criteria are established for naming all roads in the unincorporated areas of Marathon County:

(1) U.S. and State Trunk Highways. Those presently designated by number by State of Wisconsin Department of Transportation, (WIS DOT) shall retain such designation. New U.S. and state trunk highway shall be numbered by (WIS DOT).

(2) County Highways. County Highways shall be designated by letter (e.g. County Road "X"). Changes to or new county highways shall be named by the Marathon County Infrastructure Committee.

(3) County Forest Roads. County Forest Roads shall be designated by number (e.g. County Forest Road "10"). Changes to or new county forest roads shall be named by Marathon County Environmental Resources Committee.

(4) Other Public Roads. All other public roads shall be designated by naming according to the following procedures:

a. All roads named on the official Marathon County Road Naming Map prepared by CPZ which do not duplicate other road names on the County Addressing Grid, shall retain their names.

b. Town boards may, by resolution, name new town roads and submit the name and a map showing its location to CPZ for comparison to existing road names in order to avoid conflicts with other roads having similar or identical names. If there is no conflict, the new name shall be added to the master index of road names and be included on the next official road naming map. If there is a conflict with another road name, CPZ may cooperate with the town board in the selection of a name which does not conflict with other road names in the county.

(5) Private Roads. When consistent with the public interest in providing government and emergency services and on application of the owner, the town may name private roads following the same process that is used in naming public roads. Owner(s) of the lands on which any such private road is located must agree, by written instrument, to maintain approved signs displaying the road name(s) assigned by the department. Owner(s), heirs, successors and assigns, shall not thereafter change the name of any such road without written consent of CPZ.

(c) Road Name Signs.

(1) Road name signs shall be placed at the intersections of all roads, showing the names of the roads in accordance with the official road naming map. Road name signs are the responsibility of the town in which the road is located. Road name signs within private, commercial, business, industrial, apartment, and condominium complexes shall be the sole responsibility of the property owner(s).

(2) The type of lettering, composition, material, color, mounting posts, and accessories shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) by the U.S. Department of Transportation.

(d) Requiring Addresses. Address numbers shall be assigned to the following:

(1) Each home, business, farm, principle structure or other establishment shall have a unique number.

(2) Parcels containing ongoing business operation or public facility.

(3) Any structure not associated with a principal structure, which contains a driveway access point such as radio/television/cell/mobile towers, warehouses, storage facilities, utility buildings, and/or other structures.

(4) Any other parcel as determined by CPZ for emergency response access.

(e) Address Sign. All towns shall have uniform address signs.

(8) Enforcement/penalties.

(a) All persons, firms, corporations, associations, partnerships, bodies politic or other entities capable of being sued that own or have jurisdiction over highways, streets, roads or real property located within the Uniform Addressing System, set forth above, shall comply with said system.

(b) Any violation of any provision of this ordinance shall, upon conviction, be punishable as provided under Section 25.04 of this Code.

## **CHAPTER 9 – PUBLIC PEACE AND GOOD ORDER**

### IN GENERAL

#### **Sec. 9.01 – Scope, Authority, and Penalties Applicable within this Chapter.**

- (1) *Scope.* The Ordinances within Chapter 9 of the Marathon County General Code define offenses against the peace and good order of the State of Wisconsin and residents of Marathon County, or otherwise prohibit conduct that is the same as or similar to that provided by Wis. Stat. Chapters 940 through 949.
- (2) *Authority.* The Ordinances within Chapter 9 of the Marathon County General Code are enacted pursuant to the authority delegated to Marathon County pursuant to Wis. Stat. § 59.54(6) and (22), unless otherwise specified.
- (3) *Penalties.* Unless a specific penalty provision is otherwise prescribed for a particular violation, any person found to be in violation of any provision of this chapter, or any order, rule or regulation made hereunder, shall be subject to a penalty as provided in § 25.04 of this General Code.
- (4) *Prosecution.* Pursuant to Wis. Stat. § 978.05(2), the Marathon County District Attorney shall have authority to prosecute all offenses in this Chapter that prohibit conduct that is the same or similar to conduct prohibited by state laws within the District Attorney's jurisdiction.

### PART I – OFFENSES AGAINST THE PERSON

#### **Sec. 9.11 - Battery**

No person shall cause bodily harm to another by an act done with intent to cause bodily harm to that person or another without consent of the person so harmed.

#### **Sec. 9.12 – Harassment**

No person shall, with intent to harass or intimidate another person, do any of the following:

- (1) Strike, shove, kick, or otherwise subject a person to physical contact or threaten to do the same.
- (2) Engage in a course of conduct or repeatedly commit acts which harass or intimidate a person and which serve no legitimate purpose.

### PART II – PRESERVATION OF PUBLIC PEACE AND GOOD ORDER

#### **Sec. 9.21. - Disorderly conduct.**

No person shall, in a public or private place, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

### **Sec. 9.22. - Disorderly conduct with a motor vehicle.**

- (1) *Definitions.* In this section, a motor vehicle shall mean any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, water or ice.
- (2) No person shall in a public or private place operate a motor vehicle in an abusive, boisterous, unreasonably loud or otherwise disorderly manner under circumstances which tend to cause or provoke a disturbance. Such conduct shall include, but not be limited to because of enumeration, conduct which tends to disturb, annoy or endanger one or more individuals because of unnecessary or deliberate spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing engine to backfire or causing vehicle while commencing to move or in motion to raise one or more of its wheels, tracks or skis off the ground or operate at an unreasonable or imprudent speed.

### **Sec. 9.23 – Resisting or Obstructing an Officer**

- (1) *Definitions.* In this section:
  - (a) “Obstruct” includes without limitation knowingly giving false information to an officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty, including the service of any summons or civil process.
  - (b) “Officer” means a peace officer or other public officer or public employee having the authority by virtue of the officer’s or employee’s office or employment to take another into custody.
- (2) No person shall knowingly resist or obstruct an officer while such officer is doing any act in an official capacity and with lawful authority.

## **PART III – OFFENSES AGAINST PROPERTY**

### **Sec. 9.31 – Damage to Property**

No person shall intentionally cause damage to any physical property of another without the person’s consent.

### **Sec. 9.32 - Theft**

No person shall intentionally take and carry away, use, transfer, conceal, or retain possession of moveable property of another without the owner’s consent and with intent to deprive the owner permanently of possession of such property.



### **Sec. 9.33. - Retail theft.**

(1) *Definitions.* In this section,

- (a) Merchant includes any "merchant" as defined in Wis. Stat. § 402.104(3), or any innkeeper, motelkeeper or hotelkeeper.
- (ar) Theft detection device means any tag or other device that is used to prevent or detect theft and that is attached to merchandise held for resale by a merchant or to property of a merchant.
- (as) Theft detection device remover means any tool or device used, designed for use or primarily intended for use in removing a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (at) Theft detection shielding device means any laminated or coated bag or device designed to shield merchandise held for resale by a merchant or property of a merchant from being detected by an electronic or magnetic theft alarm sensor.

(b) Value of merchandise means:

1. For property of the merchant, the value of the property; or
2. For merchandise held for resale, the merchant's stated price of the merchandise or, in the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant's stated price, the difference between the merchant's stated price of the merchandise and the altered price.

(2) No person may do any of the following without the merchant's consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property:

- (a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.
- (b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.
- (c) Intentionally transfers merchandise held for resale by a merchant or property of a merchant.
- (d) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.

- (e) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.
- (f) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (g) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.
- (h) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant.

(3) In addition to the penalties provided for violation of this section in Section 25.04 of this General Code of Ordinances, a judge may order a violator to make restitution under Wis. Stat § 800.093.

**Sec. 9.34. - Issuance of worthless checks.**

- (1) No person shall issue any check or other order for the payment of money which at the time of issuance he intends shall not be paid.
- (2) Any of the following is prima facie evidence that the person at the time he issued the check or other order for the payment of money intended it should not be paid:
  - (a) Proof that at the time of issuance the person did not have an account with the drawee.
  - (b) Proof that at the time of issuance the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
  - (c) Proof that when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
- (3) This section does not apply to postdated checks or to a check given for a past consideration, except a payroll check.
- (4) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under § 973.20, Wis. Stats. A victim may not be compensated under that section and § 943.245, Wis. Stats.

- (5) Violation of this section shall be prosecuted by the office of the District Attorney.

### **Sec. 9.35 Trespass**

(1) *Trespass to Land*

(a) No person shall:

- (a) Enter into any enclosed, cultivated or undeveloped land of another, other than undeveloped land specified in this Section, without the express or implied consent of the owner or occupant.
  - (b) Enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on the land.
  - (c) Enter any land of another that is occupied by a structure used for agricultural purposes without the express or implied consent of the owner or occupant.
  - (d) Enter or remain on undeveloped land that is an inholding of another after having been notified by the owner or occupant not to enter or remain on the land.
  - (e) Enter undeveloped private land from an abutting parcel of land that is owned by the United States, this state or a local governmental unit, or remain on such land, after having been notified by the owner or occupant not to enter or remain on the land.
  - (f) Erect on the land of another signs which are the same as or similar to those described in subsection (6) without obtaining the express consent of the lawful occupant of or holder of legal title to such land.
- (b) Nothing in this section shall prohibit a representative of a labor union from conferring with any employee provided such conference is conducted in the living quarters of the employee and with the consent of the employee occupants.
- (c) This section does not apply to any of the following:
- (a) A person entering the land, other than the residence or other buildings or the curtilage of the residence or other building, of another for the purpose of removing a wild animal as authorized under §§ 29.59(2), (3) or (4), Wis. Stats., or successor statutes.
  - (b) A hunter entering land that is required to be open for hunting under §§ 29.59(4m) or 29.598(7m), Wis. Stats., or their successor statutes.
- (d) Any authorized occupant of employer-provided housing shall have the right to decide who may enter, confer and visit with the occupant in the housing area the occupant occupies.
- (e) In determining whether a person has implied consent to enter the land of another a trier of fact shall consider all of the circumstances existing at the time the person entered the land, including all of the following:
- (a) Whether the owner or occupant acquiesced to previous entries by the person or by other persons under similar circumstances.
  - (b) The customary use, if any, of the land by other persons.

- (c) Whether the owner or occupant represented to the public that the land may be entered for particular purposes.
  - (f) A person has received notice from the owner or occupant within the meaning of this section if he or she has been notified personally, either orally or in writing, or if the land is posted. Land is considered to be posted under this subsection under either of the following procedures:
    - (a) If a sign at least 11" square is placed in at least two conspicuous places for every 40 acres to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. None of the colors used in the sign may be blaze orange. Proof that appropriate signs as provided in this paragraph were erected or in existence upon the land to be protected prior to the event complained of shall be prima facie proof that the land to be protected was posted as provided in this paragraph.
    - (b) If markings in a color other than blaze orange and at least one-foot long, including in a contrasting color other than blaze orange the phrase "private land" and the name of the owner, are made in at least two conspicuous places for every 40 acres to be protected.
  - (g) An owner or occupant may give express consent to enter or remain on the land for a specified purpose or subject to specified conditions and it is a violation of this section for a person who received that consent to enter or remain on the land for another purpose or contrary to the specified conditions
- (2) *Trespass to Dwellings.*
- (a) In this section, "dwelling" means a structure or a part of a structure that is used or intended to be used as a home or residence by one or more persons to the exclusion of all others. For the purposes of this section, a dwelling meets that definition regardless of whether the dwelling is currently occupied by a resident.
  - (b) No person may intentionally enter or remain in the dwelling of another without the consent of some person lawfully upon the premises or, if no person is lawfully on the premises, without the consent of the owner of the property that includes the dwelling, under circumstances tending to create or provoke a breach of the peace.

## **Sec. 9.36 – Abandoned Vehicles**

(1) *Definitions.*

- (a) "Vehicle" as used in this section includes any motor vehicle, trailer, semitrailer, mobile home, or any other motor vehicle as defined in Wis. Stat. § 340.01(35).

- (2) *Authority.* This section is enacted pursuant to Wis. Stat. § 342.40(3).

- (3) *Abandoned vehicles prohibited.* No person shall leave unattended any vehicle on any public highway, private or public property or in or on any waters within Marathon County for more than forty-eight (48) hours, unless that person has obtained the permission of the landowner or the Marathon County Sheriff or his or her designee. A vehicle is presumed to be abandoned if it has been left unattended without the permission of the property owner or the Marathon County Sheriff, or his or her representative, for more than forty-eight (48) hours or if other indicia of abandonment is apparent.

#### PART IV – OFFENSES INVOLVING MINORS

##### **Sec. 9.41. - Violations of alcohol beverage laws by underage persons.**

- (1) *Definitions.* For the purposes of this section, the following terms have the following meanings:
- (a) *Adult* means a person who has obtained the age of 17 years old or older.
  - (b) *Control* means the power to direct, manage, oversee, supervise, organize, conduct, and shall also mean, hosting, allowing or permitted or sponsoring. A person need not be present on the premises to be in control.
  - (c) *Knowingly permit* means there must be evidence or a reasonable inference from evidence that the person knew or should have known that consumption of alcoholic beverages would occur.
  - (d) *Premises* shall have the meaning under 125.02(14m), Wis. Stats., and shall also include all public or private property, regardless of whether said property is described in a license or permit.
- (2) *Providing alcohol beverages to underage persons.*
- (a) *Restrictions.*
    - i. No person may procure for, sell, dispense or give away alcohol beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
    - ii. No license or permittee shall sell, vend, deal or traffic any alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
    - iii. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This subdivision does not apply to alcohol beverages used exclusively as a part of a religious service.
    - iv. No adult may intentionally encourage or contribute to a violation of par. (1) of this ordinance or § 125.07(4)(a) or (b), Wis. Stats.
  - (b) *Penalties.* Section 125.07(1)(b), Wis. Stats., providing penalties for violations of this subsection, is specifically adopted as now written or may be subsequently amended, repealed, created or recreated or renumbered and is incorporated herein by reference.

- (3) *Underage persons.*
- (a) *Restrictions.* No person under the legal drinking age shall consume, possess, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverages or loiter upon the premises of any business establishment licensed for the sale of intoxicating liquor or fermented malt beverages in violation of Ch. 125, Wis. Stats., or any amendments or revisions thereto.
- (b) *Penalties.* Penalties for violation of this section shall be as specified in Ch. 125, Wis. Stats., including any amendments or revision thereto. Section 938.17(2), Wis. Stats., including any revisions and amendments thereto, is hereby adopted by reference.

**Sec. 9.42. - Minor pornography.**

- (1) *Prohibited.* No person shall, within the County, knowingly engage in either the public or private business of selling to minors; lending, giving away, showing to or distributing to minors for a monetary consideration; advertising for sale to minors; or placing for sale in such a location so as to allow a minor to buy, handle, read, hear or view any obscene motion picture, live show, sound recording, still picture, photograph, book, magazine, pocket book or pamphlet, the cover or content of which exploits, is devoted to or is principally made up of descriptions or depictions of illicit sex, sexual immorality, sexual conduct, sexual excitement or sado-masochistic abuse or which consists of pictures of a nude human being or partially nude human beings, posed or presented in such a manner so as to provoke or arouse lust, passion or exploit sexual lust or perversion. A work shall be considered obscene if an average person applying contemporary County standards would find that the work, taken as a whole, appeals to the prurient interest in sex or portrays sexual conduct in a patently offensive way and, if taken as a whole, does not have serious literary, artistic, political or scientific value.
- (2) *Definitions.* For the purposes of this section, the following terms shall have the meanings indicated:
- (a) *Acts knowingly.* A person acts knowingly if he has general knowledge of, or reason to know of, a belief or ground for belief which warrants further inspection or inquiry of the character and content of any material described herein which is reasonably susceptible of examination.
- (b) *Descriptions or depictions of illicit sex or sexual immorality.*
- i. Human genitals in the state of sexual stimulation or arousal.
  - ii. Acts of human masturbation, sexual intercourse or sodomy, fondling or otherwise erotic touching of human genitals, pubic region, buttocks or female breast.
- (c) *Minor.* Any person under the age of 18 years at the time the illegal act occurs.
- (d) *Nude or partially nude.* Less than completely opaquely covered human genitals, public region, buttocks, female breast below the point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely or opaquely covered.

- (e) *Sado-masochistic abuse*. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
  - (f) *Sexual conduct*. Acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, public area, buttocks or, if such person is a female, her breast.
  - (g) *Sexual excitement*. Human male or female genitals in a state of sexual stimulation or arousal.
  - (h) *Terms, all other*. All other terms, words or phrases used in this section shall have the meaning as commonly understood within County.
- (3) *Determination of age*. Each person who deals in such products or items as referred to in this section shall have the sole responsibility to personally ascertain the true age of each person to whom he or she makes such items available. To do so such person shall be expected to rely upon an official Wisconsin identification card as distributed through the office of the Register of Deeds of the various counties of Wisconsin.
  - (4) *Penalty*. Any person violating this section shall, upon conviction, pay a forfeiture of not less than \$250.00 nor more than \$1,500.00, plus costs per day for each day a violation continues. Forfeitures for second and subsequent offenses shall be not less than \$500.00 nor more than \$2,500.00, plus costs per day for each day a violation continues.

#### **Sec. 9.43. - Truancy**

- (1) Any school-aged child is prohibited from being a habitual truant as that term is defined in § 118.16(1)(a), Wis. Stats., or its successor statute.
- (2) In this section, "habitual truant" means a pupil who is absent from his/her school without an acceptable excuse pursuant to the above referenced statute for part or all of five or more days during a school semester.
- (3) Upon a finding of habitual truancy, the court is authorized to enter a Dispositional Order containing some or all of the terms and conditions authorized by § 118.163, Wis. Stats and/or § 938.342, Wis. Stats., or their successor statutes, including, but not limited to:
  - (a) Suspension of the child's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and the duration of the suspension.
  - (b) An order for the child to participate in counseling, community service, or a supervised work program as described in § 938.34(5g), Wis. Stats. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parent or guardian of the person or both.

- (c) An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his/her home if the child is accompanied by a parent or guardian.
  - (d) An order for the child to attend school or an educational program as described in § 938.74(7d), Wis. Stats., or its successor statute.
  - (e) Order the department of industry, labor and job development to revoke, under § 103.72, Wis. Stats., a permit under § 103.70, Wis. Stats., authorizing the employment of the person.
  - (f) Order the person to be placed in a teen court program as described in § 938.342(1g)(f), Wis. Stats., or its successor statute.
  - (g) A forfeiture of not more than \$500.00 plus costs, subject to § 938.37, Wis. Stats. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
  - (h) Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
  - (i) An order placing the person under formal or informal supervision, as described in § 938.34(2), Wis. Stats., for up to one year.
  - (j) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the person, or both.
- (4) *School attendance.* No person shall, having under his/her control a child who is between the ages of six and 18 years, allow that child to be in noncompliance with § 118.15, Wis. Stats., or its successor statute.
- (5) *Contributing to truancy.* No person 17 years of age or older, by any act or omission, shall knowingly encourage or contribute to the truancy of a child. An act or omission contributes to the truancy of a child, whether or not the child is so adjudged if the natural and probable consequences of that act or omission would be to cause the child to be truant.
- (6) Pursuant to § 938.355(6m), Wis. Stats., juveniles found to have violated a municipal habitual truancy ordinance enacted pursuant to Ch. 118, Wis. Stats., or who have been found in need of protection or services under § 938.13(6), Wis. Stats., and who subsequently violate the court's dispositional order may, as a



sanction, be placed in secured detention for not more than five days for each violation of the court order.

**Sec. 9.44. - Harboring, aiding, abetting and/or assisting minor runaways.**

- (1) No person shall knowingly allow, permit or board any minor child at his residence, business or other property in his control, where the person knows or should have known the minor child to be a runaway, from his parent, guardian or legal custodian.
- (2) No person shall knowingly assist, aid or abet a runaway child to escape apprehension or flee from his parents or authorities including, but not limited to:
  - (a) Provide transportation to such runaway child.
  - (b) Provide money, clothing or any other useful instrument to the runaway child to aid the runaway child in escape.
  - (c) Obstruct by providing false or untrue information regarding the location or plan of the runaway child.
  - (d) Refuse to provide information to law enforcement officers when questioned about the runaway child, which information was known to them at the time and would assist in the apprehension of such runaway child.
  - (e) Assist, aid or abet the runaway child in any other way for the purpose of hindering law enforcement officers or the child's parents, guardian or legal custodian from learning the whereabouts of the child.
- (3) This section does not apply to the recipient of a placement by the Juvenile Court intake staff or the Court, providing that the law enforcement agency who originated the runaway child report is informed of such placement. This section does not apply to any person providing temporary shelter to a runaway for the purpose of protecting the runaway from imminent abuse, provided the person does not withhold information about the whereabouts of the runaway if questioned by law enforcement authorities and reports the whereabouts of a known runaway to law enforcement officers as soon as feasible.

**Sec. 9.45 Purchase or Possession of Cigarettes, Nicotine Products, and Tobacco Products by Juveniles Prohibited**

- (1) *Authority.* This section is enacted pursuant to Wis. Stat. § 254.92(4).
- (2) *Definitions.* In this section, the following words have the definitions given:
  - (a) "Cigarette" has the meaning given in Wis Stat. § 139.30 (1m).
  - (b) "Nicotine product" has the meaning given in Wis. Stat. § 134.66(1)(f).
  - (c) "Tobacco products" has the meaning given in Wis. Stat. § 139.75 (12).
- (3) No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product.
- (2) No person under 18 years of age may purchase, attempt to purchase, or possess any cigarette, nicotine product, or tobacco product except as follows:

- (a) A person under 18 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.
- (b) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under Wis. Stat. § 254.916 that is conducted in accordance with Wis. Stat. § 254.916 (3).
- (2m) No person may purchase cigarettes, tobacco products, or nicotine products on behalf of, or to provide to, any person who is under 18 years of age. Any person who violates this subsection may be:
- (a) Required to forfeit not more than \$500 if the person has not committed a previous violation within 30 months of the violation.
- (b) Fined not more than \$500 or imprisoned for not more than 30 days or both if the person has committed a previous violation within 30 months of the violation.
- (c) Fined not more than \$1,000 or imprisoned for not more than 90 days or both if the person has committed 2 previous violations within 30 months of the violation.
- (d) Fined not more than \$10,000 or imprisoned for not more than 9 months or both if the person has committed 3 or more previous violations within 30 months of the violation.
- (3) A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product that has been sold to and is in the possession of a person under 18 years of age.
- (4) This section does not apply within any town, village or city that has adopted or adopts an ordinance pursuant to § 254.92 (4), Wis. Stats.
- (5) The disposition of any juvenile adjudged to have violated this section shall be as set forth in § 938.343, Wis. Stats., or its successor statute.

## PART V – OFFENSES ON OR INVOLVING COUNTY PROPERTY

### **Sec. 9.51. - Smoke-free county buildings, property/grounds.**

- (1) *Authority.* This ordinance is enacted pursuant to the authority granted in §101.123, Wis. Stats. The county administrator is charged with implementing and enforcing this ordinance.
- (2) *Purpose.* It is the purpose of this section to protect the environment and public health and comfort by prohibiting smoking in county facilities, county property and grounds. Numerous studies have found that tobacco smoke is a major contributor of indoor air pollution, and that breathing second-hand smoke (also

known as environmental tobacco smoke) is a cause of disease in healthy non-smokers, including heart disease, stroke, respiratory disease and lung cancer.

- (3) *Definitions.* In this section the following terms have the following meanings:
- (a) *County Building.* Any enclosed space owned or leased by Marathon County. This includes any building or structure intended to be a permanent accession to real property; that is designed for sheltering people, for storing property, or for working, office or parking space; that in physical appearance is annexed to real property, that is covered by a roof and has more than two substantial walls; that is not readily moved or disassembled; and that is commonly known to be a building or structure because of its appearance and because of the materials with which it is constructed.
  - (b) *Designated County Property/Grounds.* Any real property or grounds owned or leased by or under the jurisdiction of Marathon County that has been identified as tobacco-free by signs, placards, etc.
  - (c) *Person in Charge.* Consistent with Marathon County's personnel policy, department heads with primary responsibility for operations performed at the sites listed in paragraph (5)(b), or their designees. The county administrator and the sheriff share responsibility for compliance for the Marathon County Courthouse. The county administrator is responsible for ensuring compliance at the River Drive sites.
  - (d) *Smoking.* The burning or holding, or inhaling or exhaling of smoke from, any of the following items containing tobacco:
    - i. A lighted cigar.
    - ii. A lighted cigarette.
    - iii. A lighted pipe.
    - iv. Any other lighted smoking equipment.
  - (e) *Substantial wall.* A wall with no opening or with an opening that either does not allow air in from the outside or is less than 25 percent of the wall's surface area.
- (4) *Prohibited Conduct.* It is unlawful for any person to smoke in any county building or on designated county property/grounds.
- (5) *Notification to the Public.*
- (a) All county buildings, designated county property/grounds and county vehicles/equipment shall be posted in accordance with this section and with § 101.123, Wis. Stats.
  - (b) The County Administrator has designated as tobacco-free the property/grounds surrounding the county buildings at the following locations:
    - i. Marathon County Courthouse, 500 Forest Street, Wausau
    - ii. 210 and 212 River Drive, Wausau
    - iii. Social Services, 400 East Thomas Street, Wausau
    - iv. Library Headquarters, 300 N. 1<sup>st</sup> Street, Wausau
    - v. Parks Maintenance Shop, 900 Pardee Street, Wausau
    - vi. Capital Facilities Building, 1308 West St., Wausau

- vii. Marathon County Landfill, 18500 E. Hwy. 29, Ringle
  - viii. All Highway Department facilities (Wausau, Stratford, Mosinee, Hatley, Abbotsford)
  - ix. University of Wisconsin-Marathon County, 518 S. 7<sup>th</sup> Avenue and 625 Stewart Avenue, Wausau
- (c) The County Administrator may make modifications to designated county property/grounds and provide notification to the public as provided above.
- (6) *Enforcement Responsibility.*
- (a) No person in charge may allow any person to smoke in violation of paragraph (4) at a location that is under the control or direction of the person in charge.
  - (b) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
    - (c) Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
    - (d) Asking the person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
    - (e) If the person refuses to leave the location after being requested to do so as provided in subparagraph 2., the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- (7) *Violation-Penalty Enforcement.* Any person who violates paragraph (4) shall be subject to a forfeiture of not less than \$25.00 nor more than \$50.00 for each violation.
- (8) *Effective date.* This ordinance shall become effective on July 5, 2010.

### **Sec. 9.52 – Littering**

- (1) *Definitions.* In this section:
- (a) “Highway” has the meaning given in Wis. Stat. § 340.01(22).
  - (b) “Vehicle” has the meaning given in Wis. Stat. § 340.01(74).
- (2) No person shall deposit or discharge any garbage, refuse, or litter on or along any highway, in any body of water in the county, on the ice of any body of water of the county, or on any other public or private property.
- (3) No person shall permit any garbage, refuse, or litter to be thrown from a vehicle operated by the person.

### **Sec. 9.53 – Unauthorized Dumping**

No person shall dump, deposit, or cause to be deposited, dropped, placed, discharged, left, spilled, or scattered any hazardous waste, industrial waste, infectious waste, garbage, refuse, or other waste material upon any premises owned or leased by Marathon County.

## **Sec. 9.54 – Prohibition on Dangerous Items – Marathon County Courthouse**

- (1) *Definitions.*
  - (a) *Prohibited Item.* In this section, a prohibited item is any personal property that poses a danger to the safety and security of persons working or conducting business within the Marathon County Courthouse.
  - (b) *Security checkpoint.* In this section, security checkpoint is defined as the area inside the public entrance of the Marathon County Courthouse where Marathon County Sheriff's Office deputies initiate security screening of persons entering the building.
- (2) No person, except for law enforcement officers on duty at the time of entry, may enter the Marathon County Courthouse beyond the security checkpoint if the person is found to have in their possession a prohibited item. Marathon County Sheriff's Office deputies are authorized to use discretion to determine whether an item meets the definition of a prohibited item for the purposes of this section.
- (3) Any person found to have intentionally carried or possessed a prohibited item beyond the security checkpoint of the Marathon County Courthouse, after being provided written or verbal notice upon entry into the Courthouse that said item is prohibited under this section, shall be subject to a forfeiture as outlined in Section 25.04 of the General Code.

## **SECTION VI – ALCOHOL, TOBACCO, AND NICOTINE**

### **Sec. 9.61 Allowing Patrons to Smoke on Premises**

- (1) *Authority.* This section is enacted pursuant to Wis. Stat. § 101.123(4m).
- (2) No person who controls, governs, or directs the activities at a location where smoking is prohibited or regulated under Wis. Stat. § 101.123 may allow any person to smoke at the prohibited or regulated location.
- (3) *Penalty.*
  - (a) *Warning notice.* If a person who violates this section has not previously received a warning notice for a violation of (2), that person shall receive a written warning notice regarding the violation and is not subject to a forfeiture.
  - (b) Any person who violates this section after previously receiving a warning under (3)(a) shall be subject to a forfeiture of \$100 for each violation. No person may be required to forfeit more than \$100 in total for all violations of this section occurring on a single day.

- (4) *Enforcement.* This section may be enforced by the issuance of citations as allowed in sec. 25.04(4) of this General Code of Ordinances.

**Sec. 9.62. - Curfew on possession and/or consumption of liquor and malt beverages on public access sites to waters.**

During the period from 6 p.m. on April 1 to 6 a.m. on May 15 of each year, no person may possess containers of intoxicating liquor or fermented malt beverages or consume intoxicating liquor or fermented malt beverages while on or within the boundaries of public access sites to waters within the County when such sites are posted with notice of this curfew and restriction. This curfew shall only apply between the hours of 6 p.m. to 6 a.m. the following day. The phrase "on or within the boundaries of public access sites to waters" is defined as an improved or clearly established public area, such as a road or parking lot, which is upon or connected to a public road and which leads to the edge of the water.

**Sec. 9.63. - Restrictions on sale or gift of cigarettes or nicotine or tobacco products.**

(1) *Definitions.* In this section:

- (a) "Cigarette" has the meaning given in s. 139.30 (1m).
- (am) "Direct marketer" has the meaning given in s. 139.30 (2n).
- (b) "Distributor" means any of the following:
  - 1. A person specified under s. 139.30 (3).
  - 2. A person specified under s. 139.75 (4).
- (c) "Identification card" means any of the following:
  - 1. A license containing a photograph issued under ch. 343.
  - 2. An identification card issued under s. 343.50.
  - 3. An identification card issued under s. 125.08, 1987 stats.
  - 4. A tribal identification card, as defined in s. 134.695 (1) (cm).
- (d) "Jobber" has the meaning given in s. 139.30 (6).
- (e) "Manufacturer" means any of the following:
  - 1. A person specified under s. 139.30 (7).
  - 2. A person specified under s. 139.75 (5).
- (f) "Nicotine product" means a product that contains nicotine and is not any of the following:
  - 1. A tobacco product.
  - 2. A cigarette.
  - 3. A product that has been approved by the U.S. food and drug administration for sale as a smoking cessation product or for another medical purpose and is being marketed and sold solely for such an approved purpose.
- (g) "Retailer" means any person licensed under s. 134.65 (1).
- (h) "School" has the meaning given in s. 118.257 (1) (d).
- (hm) "Stamp" has the meaning given in s. 139.30 (13).
- (i) "Subjobber" has the meaning given in s. 139.75 (11).
- (j) "Tobacco products" has the meaning given in s. 139.75 (12).
- (k) "Vending machine" has the meaning given in s. 139.30 (14).
- (L) "Vending machine operator" has the meaning given in s. 139.30 (15).

(2) *Restrictions.*

(a) No retailer, direct marketer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person under the age of 18, except as provided in s. 254.92 (2) (a). A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products, or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

(am) No retailer, direct marketer, manufacturer, distributor, jobber, subjobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or subjobber and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

(b)

1. A retailer shall post a sign in areas within his or her premises where cigarettes, nicotine products, or tobacco products are sold to consumers stating that the sale of any cigarette, nicotine product, or tobacco product to a person under the age of 18 is unlawful under this section and s. 254.92.

2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette, nicotine product, or tobacco product by a person under the age of 18 is unlawful under s. 254.92 and that the purchaser is subject to a forfeiture of not to exceed \$50.

(cm)

1m. A retailer or vending machine operator may not sell cigarettes, nicotine products, or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

2. Notwithstanding subd. 1m., no retailer may place a vending machine within 500 feet of a school.

(e) No retailer or direct marketer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32 (1).

(2m) *Training.*

(a) Except as provided in par. (b), at the time that a retailer hires or contracts with an agent, employee, or independent contractor whose duties will include the sale of cigarettes, nicotine products, or tobacco products, the retailer shall provide the agent, employee, or independent contractor with training on compliance with sub. (2) (a) and (am), including training on the penalties under sub. (4) (a) 2. for a violation of sub. (2) (a) or (am). The department of health services shall make available to any retailer on request a training program developed or approved by that department that provides the training required under this paragraph. A retailer may comply with this paragraph by providing the training program developed or approved by the department of health services or by providing a comparable training program approved by that department. At the completion of the training, the retailer and the agent, employee, or independent contractor shall sign a form provided by the department of health services verifying that the agent, employee, or independent contractor has received the training, which the retailer shall retain in the personnel file of the agent, employee, or independent contractor.

(b) Paragraph (a) does not apply to an agent, employee, or independent contractor who has received the training described in par. (a) as part of a responsible beverage server training course or a comparable training course, as described in s. 125.04 (5) (a) 5., that was successfully completed by the agent, employee, or independent contractor. The department of health services shall make the training program developed or approved by that department under par. (a) available to the technical college system board, and that board shall include that training program or a comparable training program approved by that department in the curriculum guidelines specified by that board under s. 125.04 (5) (a) 5. The department of health services shall also make the training program developed or approved by that department under par. (a) available to any provider of a comparable training course, as described in s. 125.04 (5) (a) 5., on request, and the department of revenue or the department of safety and professional services may approve a comparable training course under s. 125.04 (5) (a) 5. only if that training course includes the training program developed or approved by the department of health services under par. (a) or a comparable training program approved by that department.

(c) If an agent, employee, or independent contractor who has not received the training described in par. (a) commits a violation of sub. (2) (a) or (am), a governmental regulatory authority, as defined in s. 254.911 (2), may issue a citation based on that violation only to the retailer that hired or contracted with the agent, employee, or independent contractor and not to the agent, employee, or independent contractor who has not received that training. If an agent, employee, or independent contractor who has received the training described in par. (a) commits a violation of sub. (2) (a) or (am) for which a governmental regulatory authority issues a citation to the retailer that hired or contracted with the agent, employee, or independent contractor, the governmental regulatory authority shall also issue a citation based on that violation to the agent, employee, or independent contractor who has received that training.

(3) *Defense; Sale to Minor.* Proof of all of the following facts by a retailer, manufacturer, distributor, jobber, or subjobber, an agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or subjobber, or an agent or employee of an



independent contractor who sells cigarettes, nicotine products, or tobacco products to a person under the age of 18 is a defense to any prosecution, or a complaint made under s. [134.65 \(7\)](#), for a violation of sub. [\(2\) \(a\)](#):

- (a) That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.
- (b) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.
- (c) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

(4) *Penalties.*

(a)

1. In this paragraph, "violation" means a violation of sub. (2) (a), (am), (cm), or (e) or a local ordinance which strictly conforms to sub. (2) (a), (am), (cm), or (e).
2. A person who commits a violation is subject to a forfeiture of:
  - a. Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or
  - b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.
3. A court shall suspend any license or permit issued under s. 134.65, 139.34 or 139.79 to a person for:
  - a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
  - b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or
  - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 or more other violations.
4. The court shall promptly mail notice of a suspension under subd. [3.](#) to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

(b) Whoever violates sub. (2) (b) shall forfeit not more than \$25. (5) Local ordinance. This section does not apply within any town, village or city that has adopted or adopts an ordinance under this subsection pursuant to § 134.66(5), Wis. Stats., or its successor statute.

### **Sec. 9.64 – Closing Hours**

- (1) This section is enacted pursuant to Wis. Stat. §§ 59.54(6), 125.10(1), and 125.32(3)(d).
- (2) No business or premises licensed or permitted to sell alcohol beverages pursuant to Wis. Stat. Chapter 125 may remain open beyond the closing hours set forth in Wis. Stat. § 125.32 (3).
- (3) No business or premises licensed or permitted to sell alcohol beverages pursuant to Wis. Stat. Chapter 125 may allow patrons to remain within the business or premises beyond the closing hours set forth in Wis. Stat. § 125.32 (3).
- (4) Subsection (3) does not apply to any permittee, licensee, employee, salesperson, employee of wholesaler, or service personnel on the premises to perform job-related activities.

## **SECTION VII – CONTROLLED SUBSTANCES**

### **Sec. 9.71 - Possession of Marijuana/Synthetic Cannabinoids and Drug Paraphernalia**

- (1) This section is enacted pursuant to Wis. Stat §§ 59.54(25), (25g), and (25m).
- (2) Any person possessing 25 grams or less of marijuana, as defined in § 961.01(14), Wis. Stats., or its successor statute, or any synthetic cannabinoids, as defined in § 961.14(4)(tb), Wis. Stats., or its successor statute, and subject to the exceptions set forth in § 961.41(3g), Wis. Stats., or its successor statute, shall be subject to a forfeiture as set forth in § 25.04 of this Code.
- (3) Any person using or possessing drug paraphernalia, as defined in § 961.571(1), Wis. Stats., or its successor statute, with the primary intent to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled substance analog, shall be subject to a forfeiture as set forth in § 25.04 of this Code.
- (4) *Exceptions.*
  - a. This section is not applicable to any person charged with possession of more than 25 grams of marijuana.
  - b. If a complaint is issued regarding an allegation of possession of any amount of marijuana following conviction in this state for the possession of marijuana, the subject of that complaint may not be prosecuted under this section unless (1) the charges for violating the state statute are dismissed or the district attorney declines to prosecute the case, and (2) the city, village, or town with jurisdiction over the action has no ordinance enacted under Wis. Stat. § 66.0107(1)(bm) in effect or the city, village, or town with jurisdiction over the action has declined to prosecute or has dismissed the charges for violation of the ordinance enacted under Wis. Stat. § 66.0107(1)(bm).

- (5) This section applies in every municipality within the county.

PART VIII – ANIMAL CONTROL

**Sec. 9.81. - Shining animals.**

- (1) *Definitions.*
- (a) *Department.* The State Department of Natural Resources.
  - (b) *Flashlight.* A battery operated light designed to be carried and held by hand.
  - (c) *Light.* Includes flashlights, automobile lights, spotlights and other lights.
  - (d) *Peace officer.* The meaning designated under § 939.22(22), Wis. Stats.
  - (e) *Shining.* The illumination or attempted illumination of a field, forest or other area by means of light as defined herein for the purpose of locating or attempting to locate wild animals.
- (2) *Presumption.* A person shining a field, forest or other area frequented by wild animals is presumed to be shining wild animals. This presumption may be rebutted by competent evidence to the contrary.
- (3) *Shining deer or bear while hunting or possessing weapons.*
- (a) *Prohibition.* No person may use or possess with intent to use a light for shining deer or bear while the person is hunting deer or bear or in possession of a firearm, bow and arrow or crossbow and arrow.
  - (b) *Exceptions.* This subsection does not apply to:
    - i. A peace officer acting in his official capacity.
    - ii. An employee of the Department acting in his official capacity.
    - iii. A person authorized by the Department to conduct a game census.
- (4) *Shining wild animals while hunting or possessing weapons.*
- (a) *Prohibition.* No person may use or possess with intent to use a light for shining wild animals while the person is hunting or in possession of a firearm, bow and arrow or crossbow and arrow.
  - (b) *Exception.* This subsection does not apply to:
    - i. A peace officer acting in his official capacity, an employee of the Department acting in his official capacity or a person authorized by the Department to conduct a game census.
    - ii. A person who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animals hunted.
- (5) *Shining wild animals after 10 p.m.*
- (a) *Prohibition.* No person may use or possess with intent to use a light for shining wild animals between 10 p.m. and 7 a.m.
  - (b) *Exception.* This subsection does not apply to:
    - i. To a peace officer acting in his official capacity, an employee of the Department acting in his official capacity or a person authorized by the Department to conduct a game census.
    - ii. To a person who possesses a flashlight or who uses a flashlight at the point of kill while hunting on foot raccoons, foxes or other unprotected animals during the open season for the animals hunted.

- iii. To a person who possesses a flashlight or who uses a flashlight while on foot and training a dog to track or hunt raccoons, foxes or other unprotected animals.
- iv. If rules promulgated by the Department specifically permit a person to use or possess a light for shining wild animals during these times.

**Sec. 9.82 - Animal control.**

*(1) Animal control.*

(a) No person shall own or keep a dog and allow such dog to run at large. A dog shall be considered as running at large when it is not on the premises of the owner, unless it is on a leash, or being exercised, is in a motor vehicle, or is on property of another who does not object to the presence of the animal.

(b) No person shall own or keep a dog and allow such dog to disturb other people by frequent or habitual howling, barking or yelping. The provision of this section shall not apply to licensed animal kennels, shelters, or hospitals.

(c) This section shall not apply to incorporated cities or villages or to townships enacting an ordinance pursuant to § 60.23(30), Wis. Stats., or its successor statute.

(d) Any person violating the provisions of this section shall be penalized as provided by § 25.04 of this Code. Enforcement shall be by citation. Violation of the section shall be prosecuted by the Office of Corporation Counsel.

*(2) Applicable state statutes.*

(a) State of Wisconsin certified Humane Officers employed by the agency designated by contract with Marathon County to operate an animal shelter on behalf of Marathon County shall be designated as Humane Officers for purposes of Wisconsin Statutes, Chapter 173, and this section shall have all investigative and enforcement authority specified in Wisconsin Statutes, Chapter 173, including the authority to issue abatement orders pursuant to § 173.11, Wis. Stats. This designation is made pursuant to § 173.03(2), Wis. Stats.

(b) The hearing authorized by § 173.11(3), Wis. Stats., to review abatement orders, if requested, shall be heard by the County Administrator or any other County officers or officials appointed by the County Administrator to so act on a per hearing basis.

(c) Wisconsin Statutes, Chapter 173, or its successor statute, is incorporated herein by specific reference.

## PART IX– UNIFORM ADDRESSING

### **Sec. 9.90. - Uniform addressing system.**

(1) Title. This ordinance [section] is created as the Marathon County Uniform Addressing System Ordinance.

(2) Purpose. This ordinance [section] is enacted for the purpose of establishing and maintaining a county addressing system for Marathon County that defines policies and administrative procedures related to the naming of roads, signing of roads, assigning of addresses, location of address signs, and ongoing maintenance of the system. The intent of this addressing system is to assign each location a unique address which will aid emergency personal in providing fire protection, emergency medical services, and law enforcement services; and meet other general locational needs such as delivery services of the public. Implementation of the county addressing system will advance the Marathon County Strategic Plan by providing leadership among state, regional, and local public and private entities responsible for safety and emergency response services.

(3) Authorization. This ordinance [section] is enacted under the authority granted to the County in § 59.54(4) and (4m) Wisconsin Statutes.

(4) Application. The provisions of this section shall apply to each road, home, business, farm, structure, or other establishments in the unincorporated areas of the County. Incorporated areas are exempt from this section unless otherwise indicated in any adopted intergovernmental agreement.

(5) Administration.

(a) The policy implementation and tracking of outcomes shall be provided by the Public Safety Committee.

(b) The administrative responsibility of this section shall be administered by the Conservation, Planning, and Zoning (CPZ) Department. CPZ will provide an annual report to the Public Safety Committee which tracks the implementation of the county addressing system relative to policy outcomes, strategic plan objectives, and indicators of success.

(c) The CPZ Director or designee shall have the responsibilities of coordinating the ongoing maintenance of the system. These duties shall include: assignment of addresses, maintenance of an accurate road name listing, update of maps, management of address sign installations, and enforcement of the provisions of this ordinance.

(d) Fee schedule. See department fee schedule as approved by the Public Safety Committee.

(6) Definitions.

(a) Address Sign. An individual address plate placed on a named road or driveway identifying a location address.

(b) Application Form. The form required for assignment of a new address.

(c) Private Road. Any road on private property leading to three or more driveways and/or principle structures.

(d) Road Sign. A sign posted at a road intersection that identifies the road name(s).

(7) Uniform addressing requirements.

(a) County Addressing Grid System.

(1) Marathon County shall establish a uniform addressing grid.

(b) Road Naming Selection. The following uniform criteria are established for naming all roads in the unincorporated areas of Marathon County:

(1) U.S. and State Trunk Highways. Those presently designated by number by State of Wisconsin Department of Transportation, (WIS DOT) shall retain such designation. New U.S. and state trunk highway shall be numbered by (WIS DOT).

(2) County Highways. County Highways shall be designated by letter (e.g. County Road "X"). Changes to or new county highways shall be named by the Marathon County Infrastructure Committee.

(3) County Forest Roads. County Forest Roads shall be designated by number (e.g. County Forest Road "10"). Changes to or new county forest roads shall be named by Marathon County Environmental Resources Committee.

(4) Other Public Roads. All other public roads shall be designated by naming according to the following procedures:

a. All roads named on the official Marathon County Road Naming Map prepared by CPZ which do not duplicate other road names on the County Addressing Grid, shall retain their names.

b. Town boards may, by resolution, name new town roads and submit the name and a map showing its location to CPZ for comparison to existing road names in order to avoid conflicts with other roads having similar or identical names. If there is no conflict, the new name shall be added to the master index of road names and be included on the next official road naming map. If there is a conflict with another road name, CPZ may cooperate with the town board in the selection of a name which does not conflict with other road names in the county.

(5) Private Roads. When consistent with the public interest in providing government and emergency services and on application of the owner, the town may name private roads following the same process that is used in naming public roads. Owner(s) of the lands on which any such private road is located must agree, by written instrument, to maintain approved signs displaying the road name(s) assigned by the department. Owner(s), heirs, successors and assigns, shall not thereafter change the name of any such road without written consent of CPZ.

(c) Road Name Signs.

(1) Road name signs shall be placed at the intersections of all roads, showing the names of the roads in accordance with the official road naming map. Road name signs are the responsibility of the town in which the road is located. Road name signs within private, commercial, business, industrial, apartment, and condominium complexes shall be the sole responsibility of the property owner(s).

(2) The type of lettering, composition, material, color, mounting posts, and accessories shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) by the U.S. Department of Transportation.

(d) Requiring Addresses. Address numbers shall be assigned to the following:

(1) Each home, business, farm, principle structure or other establishment shall have a unique number.

(2) Parcels containing ongoing business operation or public facility.

(3) Any structure not associated with a principal structure, which contains a driveway access point such as radio/television/cell/mobile towers, warehouses, storage facilities, utility buildings, and/or other structures.

(4) Any other parcel as determined by CPZ for emergency response access.

(e) Address Sign. All towns shall have uniform address signs.

(8) Enforcement/penalties.

(a) All persons, firms, corporations, associations, partnerships, bodies politic or other entities capable of being sued that own or have jurisdiction over highways, streets, roads or real property located within the Uniform Addressing System, set forth above, shall comply with said system.

(b) Any violation of any provision of this ordinance shall, upon conviction, be punishable as provided under Section 25.04 of this Code.

## ORDINANCE #O-\_\_\_-20

### AMENDING CHAPTER 9 OF THE GENERAL CODE OF ORDINANCES, RELATING TO REGULATIONS RELEVANT TO PUBLIC PEACE AND GOOD ORDER WITHIN MARATHON COUNTY

**WHEREAS**, Chapter 9 of the General Code of Ordinances for Marathon County sets forth regulations related to maintaining public peace and good order within the County; and

**WHEREAS**, Wis. Stat. §§ 59.54(6) and (22) authorize Marathon County to enact and enforce ordinances to preserve the public peace and good order within the County, including ordinances prohibiting conduct that is the same as or similar to conduct prohibited in the criminal code of the State of Wisconsin; and

**WHEREAS**, Wis. Stat. § 342.40(3) authorizes Marathon County to enact and enforce ordinances that provide a forfeiture for abandonment of vehicles on public or private property; and

**WHEREAS**, Wis. Stat. § 118.163(2) authorizes Marathon County to enact a local ordinance that prohibits habitual truancy; and

**WHEREAS**, Wis. Stat. § 254.92(4) authorizes Marathon County to enact an ordinance that prohibits the purchase or possession of cigarettes, nicotine products, and tobacco products by minors; and

**WHEREAS**, Wis. Stat. § 101.123(4m) authorizes Marathon County to enact an ordinance prohibiting a person who controls, governs, or directs the activities at a location where smoking is prohibited from allowing any person to smoke at the prohibited location; and

**WHEREAS**, Wis. Stat. § 125.32(3)(d) authorizes Marathon County to enact an ordinance related to closing hours for premises that sell intoxicating beverages; and

**WHEREAS**, Wis. Stat. § 59.54(25g) authorizes Marathon County to enact an ordinance prohibiting possession of synthetic cannabinoids; and

**WHEREAS**, the Marathon County Sheriff's Office has requested the attached revisions to Chapter 9 of the General Code of Marathon County to provide its deputies additional enforcement options; and

**WHEREAS**, providing Sheriff's Deputies with additional enforcement options in the field would enhance public safety by providing alternative options beyond arrest and criminal charges; and

**WHEREAS**, the Marathon County District Attorney has reviewed the attached revisions to Chapter 9 of the General Code of Marathon County and has no objection to the proposed revisions; and

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors of the County of Marathon does hereby ordain as follows:

1. To amend Chapter 9 of the Marathon County General Code of Ordinances, pursuant to the attached document, in the interests of maintaining public peace and good order in the County.

**BE IT FURTHER RESOLVED** that the ordinance shall take effect upon passage and publication as required by law.



Dated the \_\_\_\_ day of \_\_\_\_\_, 2020.

**PUBLIC SAFETY COMMITTEE**

_____	_____
_____	_____
_____	_____

\_\_\_\_\_

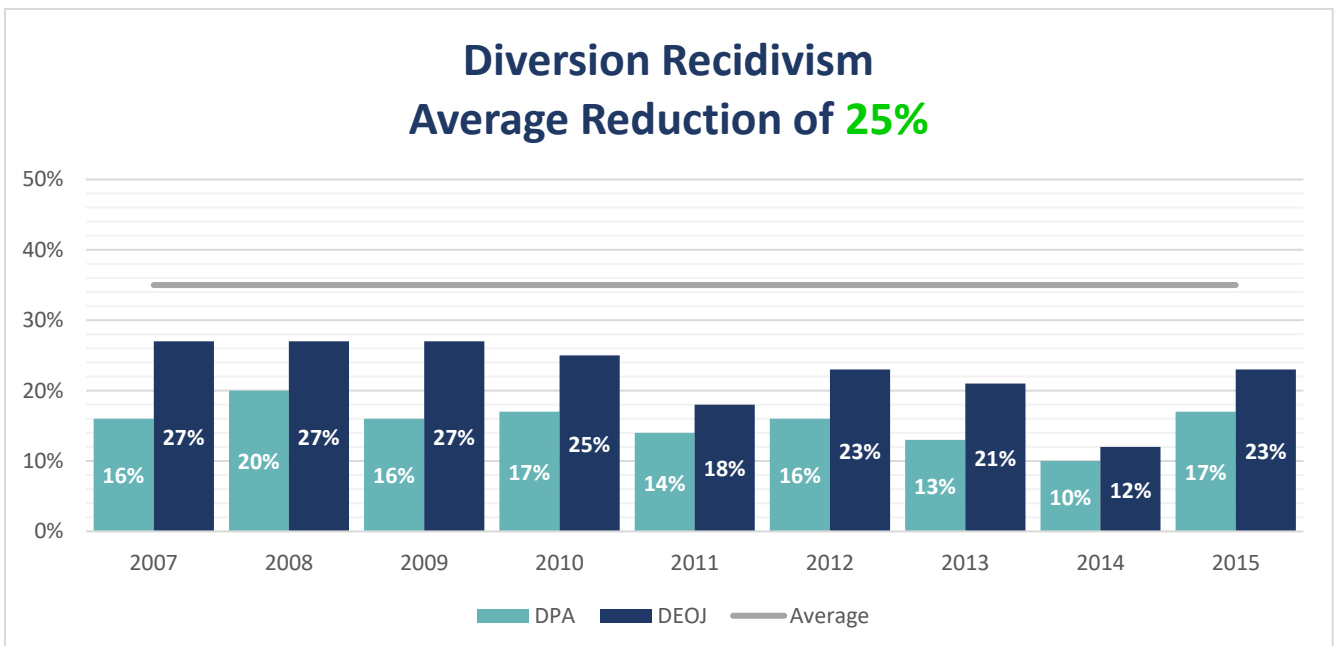
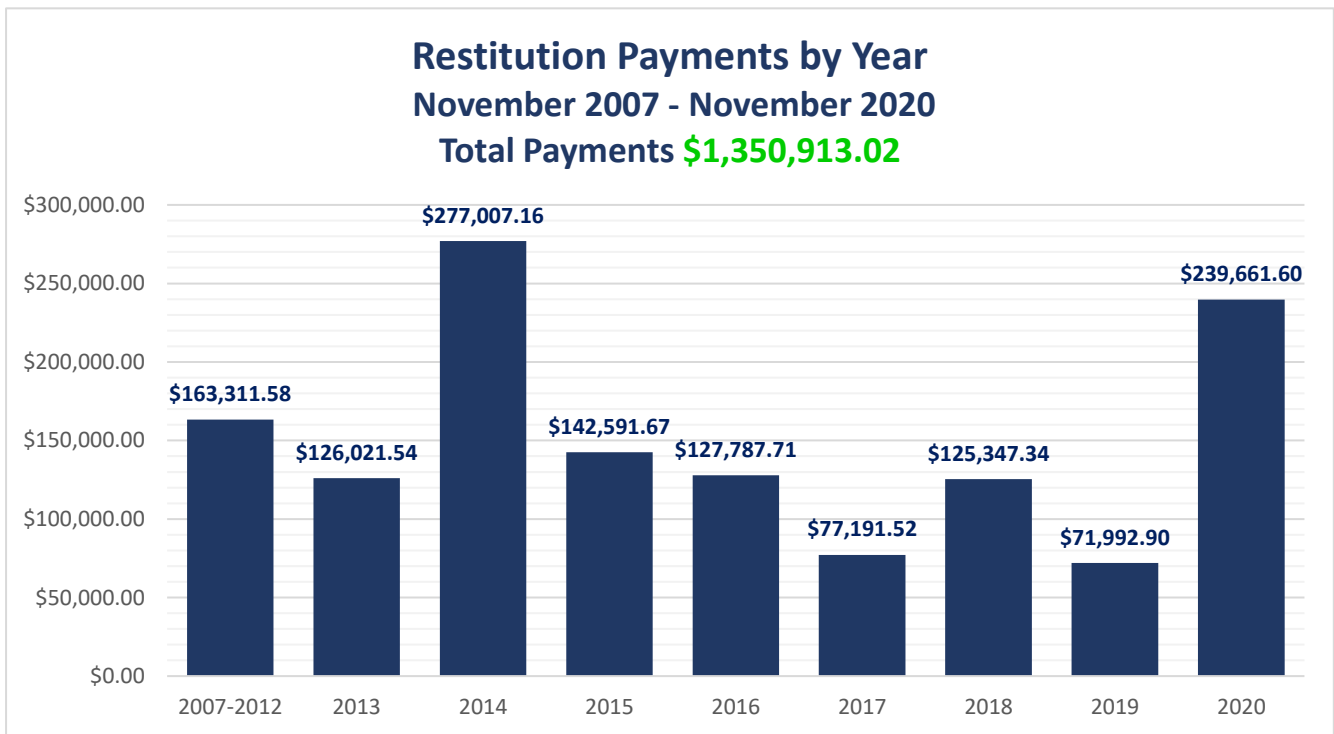
Fiscal Impact: None. The proposed changes provide additional regulations and enforcement options for Marathon County Sheriff's Deputies to utilize while in the field but do not require additional funds related to their enforcement.

# Prosecutor-Led **Diversions** Dashboard



Year	2015	2016	2017	2018	2019
Average Active Cases	455	449	459	598	467
Total Referrals	444	466	640	720	628
Successful Completion	62	347	321	396	374
Unsuccessful Completion	43	126	105	171	138
Success Rate	59%	73%	75%	70%	73%

**Diverted over 1,501 defendants Saving \$2,146,430**



# DIVERSION

## Opportunities in the Criminal Justice System

Citing an alleged offender in lieu of arrest saves an officer an average of **61.6 minutes** per incident<sup>(1)</sup>

### LAW ENFORCEMENT: ARREST DECISION

The first decision point in the criminal justice system is the arrest decision. The officer uses their discretion to determine if there is probable cause for arrest, they can decide to issue a warning, to issue a criminal citation, or arrest.



### PROSECUTOR: CHARGING DECISION

The second decision point in the criminal justice system is the charging decision. The prosecutor uses their discretion to determine whether or not to charge the case or if they should refer to diversion.



Prosecutor-Led Diversion saves an average of **\$1,430** per case<sup>(2)</sup>

### PROSECUTOR: PLEA NEGOTIATION

The third decision point in the criminal justice system is at the plea negotiation stage. The prosecutor uses their discretion on whether to propose an alternative plea offer of diversion, allowing the defendant to complete treatment and repair harm in lieu of a criminal conviction.



Post-Charge Diversion programs reduce recidivism by **30%**<sup>(3)</sup>

(1) IACP (2016). Citation in Lieu of Arrest: Examining Law Enforcement's Use of Citation Across the United States.  
(2) Rempel, M., Labriola, M., Hunt, P., Davis, R. C., Reich, Warren A., & Cherney, S. (2018). NJ's Multisite Evaluation of Prosecutor-Led Diversion Programs. Strategies, Impacts, and Cost-Effectiveness.  
(3) Data from Marathon County Diversion Program

## PRETRIAL PSA RECOMMENDATION PROJECTIONS

October 19 thru November 18, 2020

	LEVEL 1	LEVEL 2	LEVEL 3	LEVEL 4	TOTAL
<b>No. of Defendants</b>	28	12	2	17	59
<b>% of Total Defendants</b>	47.5%	20.3%	3.4%	28.8%	100%
<b>Released from Custody</b>	17	6	2	8	33
<b>% of Total Defendants</b>	28.8%	10.2%	3.4%	13.5%	55.9%
<b>Male</b>	22	10	2	15	49
					83.1%
<b>Female</b>	6	2	0	2	10
					16.9%
<b>20 or Younger</b>	1	2	0	0	3
					5.2%
<b>21 or 22</b>	3	0	0	3	6
					10.1%
<b>23 +</b>	24	10	2	14	50
					84.7%
<b>New Criminal Activity</b>	1	1	0	5	7
					11.8%
<b>On Probation</b>	6	5	1	6	18
					30.5%
<b>Out of State Charges</b>	3	3	1	4	11
					18.6%
<b>Out of State Charges Impact PSA</b>	2	2	1	3	8
					13.5%