

CHAPTER 251

LOITERING OR PROWLING PROHIBITED

[History: Ord 1995-4, Ord 1995-15, Ord 2000-2]

251.01 PURPOSE AND INTENT. It is the finding of the Common Council of the city of Richland Center, Wisconsin, consistent with the findings and recommendation of the Police and Fire Committee of the Council, that the citizens and the police department of this city have experienced problems in the past when groups of persons have congregated, especially at night, in public places such as sidewalks, street corners and parking lots, and in private places such as shop doorways opening onto the public sidewalks. These problems have included littering, intimidation of passers-by, obstruction of public and private ways, urinating on public and private property, acts of vandalism and property damage, drug activity, public intoxication resulting in vomiting on public and private property, and noise disturbances late at night and early in the morning. It is the intent of the Common Council in enacting this ordinance to proscribe and deter only that conduct which is in violation of the laws of the State of Wisconsin and the ordinances of the City of Richland Center; it is not the intent of the Common Council to in any way restrict or prohibit constitutionally protected activity.

251.02 DEFINITIONS.

(1) Loitering defined. As used in this Chapter, "loitering" shall mean "remaining idle in essentially one location," and shall include such concepts as "spending time idly, loafing, or walking about aimlessly," and shall also include the colloquial expression of "hanging around."

(2) Prowling defined. As used in this Chapter, "prowling" shall mean "roaming about stealthily or furtively."

(3) Public parking area defined. As used in this Chapter, "public parking area" shall mean anyone of the municipal parking lots located within the City, parking spaces provided on private property for use of the customers and business invitees of a commercial business establishment, and the curb-side parking spaces located along the public streets of the city of Richland Center.

(4) School vicinity defined. As used in this Chapter, "in the vicinity of a school" shall mean the actual real property parcel owned by any school or school district upon which a school building is located, and shall also mean the area within 1,000 feet of any such school building, whether actually within the real property parcel or not; provided, however, this definition shall not be deemed to include any private property located within such 1,000 feet; and section 251.05 of this ordinance shall not be deemed to apply to persons owning or legally occupying such private premises, or to such person's invitees.

251.03 LOITERING OR PROWLING PROHIBITED. No person shall loiter or prowl in a public place, at a time, or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal

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

251.04 LOITERING IN PUBLIC PARKING AREAS PROHIBITED.

(1) No person shall remain in a Public Parking Area in such a manner as to:

- (a) Create or cause to be created a breach of the peace;
- (b) Create or cause to be created any disturbance or annoyance to the comfort or repose of any person;
- (c) Obstruct or interfere with the free passage of pedestrians or vehicles in said parking area, or in any way impede or cause any restriction in the free and unimpeded access to the parking areas;
- (d) Obstruct, molest or interfere with any person lawfully in any public place, which prohibition shall include the making of unsolicited remarks of any offensive, disgusting or insulting nature, or which are calculated to annoy or disturb the person to, or in whose hearing, they are made; or
- (e) Create or cause to be created a littering problem.

(2) Remaining After Hours. No person shall remain in any Public Parking Area at any time between the hours of 8:00 P.M. and 7:00 A.M.

(3) Exceptions. The following uses of a Public Parking Area shall not be violations of Section 251.04 (4) above:

- (a) Temporary entrance to a public parking lot in an emergency or to avoid an accident.
- (b) Entrance by any police officer(s), city official(s), city employee(s), or city equipment, in the course of duty.
- (c) Entrance by fire, ambulance and other emergency personnel, and equipment, in the course of duty.
- (d) Entrance by an owner of property within a reasonable proximity of the Public Parking Area, or his or her employee; or entry by a tenant leasing property within a reasonable proximity of the Public Parking Area; or entry by an invited guest of an owner, employee, or tenant within a reasonable proximity of the Public Parking Area; for any legitimate purpose, including, but not limited to parking vehicles or equipment.
- (e) Entrance by any person for purposes of making a delivery.

(f) Entrance by any person who is acting as a legitimate customer of any legitimate business which owns or leases property within a reasonable distance from the Public Parking Area who is parking there for the purpose of purchasing legitimate goods or services.

(4) Special Events. The City may. grant temporary permission to use any Public Parking Area during any specified hours when trespassing is normally prohibited, by posting temporary signs or posters to that effect. [As amended by Ord 2000-2]

251.05 LOITERING IN THE VICINITY OF A SCHOOL PROHIBITED. No person under the age of 21 not on lawful school-related business shall enter into, congregate at, or loiter in the vicinity of a school within the City between 7:30 a.m. and 4:30 p.m. on official school days. [Amended by 1995-15]

251.06 OBSTRUCTION OF HIGHWAY BY LOITERING PROHIBITED.

(1) No person shall obstruct any street, bridge, sidewalk or crossing by loitering in or upon the same after being requested to move on by any police officer.

(2) No person may be convicted of a violation of this section unless such person has first been ordered by a police officer to leave such highway and, after being ordered to do so, such person fails to leave such area forthwith, or, after leaving such area initially, returns to such highway shortly thereafter and resumes loitering in such highway.

251.07 OBSTRUCTION OF TRAFFIC BY LOITERING PROHIBITED. No person shall loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the city in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, street crossings and bridges or other public places by persons passing along and over the same.

251.08 PENALTY Any person who shall violate any provisions of this Chapter shall, upon conviction thereof, forfeit to the city of Richland Center, not less than Fifty dollars (\$50.00) nor more than Four hundred dollars (\$400.00), as adjudged by the Court, together with the costs of prosecution as taxed and assessed by the Court, and any applicable penalty assessment and in default of payment of such forfeiture, costs and penalty assessment shall be imprisoned in the County Jail of Richland County, Wisconsin, for such period of time, but not to exceed ninety (90) days, as shall be adjudged by the Court, unless such forfeiture and costs are sooner paid.

251.09 SEVERABILITY. If any provision of this Chapter is invalid or unconstitutional, or if the application of this Chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Chapter which can be given effect without the invalid or unconstitutional provisions or applications.

SECTION II:

section 250.04(1) of Chapter 250 of the municipal code of the city of Richland Center is hereby repealed.

SECTION III:

This ordinance shall be in full force and effect from and after its passage and publication.

ORDINANCE NO. 1995 - 15

AUTHORIZING THE AMENDMENT OF SECTION 251.05 OF CHAPTER 251 OF THE CODE OF ORDINANCES OF THE CITY OF RICHLAND CENTER

The Common Council of the City of Richland Center, Wisconsin does ordain as follows:

Section I:

Section 251.05, being a provision of Chapter 251 of the Code of Ordinances of the City of Richland Center, is amended to read as follows:

251.05 LOITERING IN THE VICINITY OF A SCHOOL PROHIBITED. No person under the age of 21 not on lawful school-related business shall enter into, congregate at, or loiter in the vicinity of a school within the City between 7:30 a.m. and 4:30 p.m. on official school days. [Amended by 1995-15]

Section II:

This Ordinance shall be in full force and effect from and after its passage and publication.

Dated Passed: 1995.

Date Published: 1995.

ORDINANCE 2000-2

AMENDING SECTION 251.04

Section I:

The existing Section 251.04 shall be repealed.

Section II:

A new Section 251.04 shall be enacted, which shall read:

251.04: Loitering in Public Parking Areas Prohibited.

(1) No person shall remain in a Public Parking Area in such a manner as to:

- (a) Create or cause to be created a breach of the peace;
- (b) Create or cause to be created any disturbance or annoyance to the comfort or repose of any person;
- (c) Obstruct or interfere with the free passage of pedestrians or vehicles in said parking area, or in any way impede or cause any restriction in the free and unimpeded access to the parking areas;
- (d) Obstruct, molest or interfere with any person lawfully in any public place, which prohibition shall include the making of unsolicited remarks of any offensive, disgusting or insulting nature, or which are calculated to annoy or disturb the person to, or in whose hearing, they are made; or
- (e) Create or cause to be created a littering problem.

(2) Remaining After Hours. No person shall remain in any Public Parking Area at any time between the hours of 8:00 P.M. and 7:00 A.M.

(3) Exceptions. The following uses of a Public Parking Area shall not be violations of Section 251.04

(4) above:

- a. Temporary entrance to a public parking lot in an emergency or to avoid an accident.
- b. Entrance by any police officer(s), city official(s), city employee(s), or city equipment, in the course of duty.
- c. Entrance by fire, ambulance and other emergency personnel, and equipment, in the course of duty.
- d. Entrance by an owner of property within a reasonable proximity of the Public Parking Area, or his or her employee; or entry by a tenant leasing property within a reasonable proximity of the Public Parking Area; or entry by an invited guest of an owner, employee, or tenant within a reasonable proximity of the Public Parking Area; for any legitimate purpose, including, but not limited to parking vehicles or equipment.
- e. Entrance by any person for purposes of making a delivery.
- f. Entrance by any person who is acting as a legitimate customer of any legitimate business which owns or leases property within a reasonable distance from the Public Parking Area who is parking there for the purpose of purchasing legitimate goods or services.

(4) Special Events. The City may grant temporary permission to use any Public Parking Area

during any specified hours when trespassing is normally prohibited, by posting temporary signs or posters to that effect.

Section III:

This ordinance shall be in full force and effect from and after its passage and publication.

Date Passed: 2000.

Date Published: 3- /6 ,2000.

Mayor Thomas D. McCarthy

Jude Elliott, City Clerk/Treasurer