

ORDINANCE

AN ORDINANCE to amend Municipal Code Ordinance Creating Chapter 9, Section 4, Subsection 6 of the Municipal Code, Entitled "Failure to Act: Prevent Sexual Assault of a Minor by Adult Responsible for Minor's Welfare" and Creating Chapter 9-4-7 "Crimes Against Sexual Morality", is hereby created

The City Council of the City of Two Rivers ordains as follows:

SECTION 1. That Section 9-4-6 of City Ordinances, entitled "Failure to Act: Prevent Sexual Assault of a Minor by Adult Responsible for Minor's Welfare", is hereby created to read as follows:

A. Definitions:

1. "Sexual intercourse" means any intrusion, however slight, by any part of a person's body or of any object, into the genital or anal opening of another.
2. "Sexual contact" means the intentional touching of (intimate part) of one person by another person. The touching may be of the intimate part directly or it may be of through the clothing. The touching may be done by any body part or object, but it must be done so with the intent of causing bodily harm or for sexual arousal/gratification, or to degrade or humiliate the child.
3. "Minor" means any person under the age of 18 years.
4. "Adult responsible for the welfare of a minor" includes the minor's parents; step parent; guardian; foster parent; treatment foster parent; an employee of a public or private residential home, institution or agency; other person legally responsible for the minor's welfare in a residential setting; other person legally responsible for the minor's welfare to exercise temporary control or care for the minor, or any adult that knowingly involves themselves in compelling or coercing, subtlety or overtly, physically or psychologically, a minor into providing labor or services, or to engage in commercial sex acts.
5. "Repeated acts" means that the sexual contact or intercourse, or opportunity thereof occurred 3 or more times.

B. Prohibited acts: Adult responsible for the welfare of a minor commits this offense if they:

1. Have knowledge that another person intends to have, is having, or has had sexual intercourse or sexual contact with the minor, is physically and emotionally capable of taking action which will prevent the intercourse or contact from taking place or being repeated. Fails to take that action and the failure to act exposes the minor to an unreasonable risk that intercourse or contact may occur between the minor and the other person, even if that contact is consensual between the minor and the other person.
2. Knowingly creates an environment or opportunity thereof, where a reasonable person would believe that there is a high probability that sexual contact or intercourse shall occur between a minor and another person, therefore indicating the responsible party is facilitating the sexual contact or intercourse.

C. Exceptions: Adult responsible for the welfare of a minor does not violate this ordinance if all of the following apply:

1. The responsible party did not have knowledge that the minor was having sexual contact or intercourse.
2. The responsible party did not reasonably create an environment which would allow the minor and another person to engage in sexual contact or intercourse.
3. The responsible party acted to prevent sexual contact or intercourse from occurring between the minor and another person.

D. Penalty:

Violation of this section by a person responsible for the welfare of a minor shall be subject to a forfeiture of not less than \$200.00 nor more than \$1500.00. A higher penalty shall be imposed for repeated offenses. Nothing in this Section shall prevent the subject(s) to additional punishment according to Wis. Stats. Ch. 938

SECTION 2. That Section 9-4-7 of City Ordinances, entitled "Crimes Against Sexual Morality", is hereby created to read as follows:

A. Soliciting Prostitution

1. Definitions in this section:

- a) "Prostitution" means any offers to have or requests to have nonmarital sexual intercourse for anything of value; commits or offers to commit or requests to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another for anything of value; is an inmate of a place of prostitution; masturbates a person or offers to masturbate a person or requests to be masturbated by a person for anything of value; or commits or offers to commit or requests to commit an act of sexual contact for anything of value.
- b) "Known area of prostitution" means a public place where within three years previous to the date of arrest for violation of this section, and within the knowledge of the arresting officer, a person had been arrested for a violation which led to a conviction in Two Rivers Municipal Court or Manitowoc County Circuit Court of an offense involving prostitution.
- c) "Known prostitute" means a person who, within three years previous to the date of arrest for violation of this section, had within the knowledge of the arresting officer been convicted in Two Rivers Municipal Court, Manitowoc Municipal Court, or Manitowoc County Circuit Court of an offense involving prostitution.
- d) "Public place" means an area generally visible to public view and includes, but is not limited to, streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and buildings open to the general public including those which serve food or drink or provide entertainment, and the doorways and entrances to buildings or dwellings and the grounds surrounding them.
- e) "Place of prostitution" means any place where a person habitually engages, in public or in private, in nonmarital acts of sexual intercourse, sexual gratification involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact for anything of value.

2. Prohibited Acts: Any person who commits any of the following is subject to the penalties of this section.

- a) Any person who loiters or drives in any public place in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution.

- b) Any person who enters or remains in any place of prostitution with intent to have non-marital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact with a prostitute.
- c) Whoever solicits another to have non-marital sexual intercourse or to commit an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact with a person the solicitor knows is a prostitute.
- d) Whoever directs or transports a person to a prostitute or directs or transports a prostitute to the person with the intent to facilitate the person in having non-marital intercourse or committing an act of sexual gratification, in public or in private, involving the sex organ of one person and the mouth or anus of another, masturbation or sexual contact with a prostitute
- e) Every person or persons who shall keep a place of prostitution or who grants the use or allows the continued use of a place of prostitution, and any person who enters or remains in any place of prostitution with intent to have nonmarital sexual intercourse or to commit an act of sexual perversion as defined by Wis. Stat. Ch. [944](#) and any acts amendatory thereof and supplementary thereto.
- f) All persons are prohibited from leasing or letting, either as landlord or agent of the landlord, or agent of the tenant, or as landlord through any agent or subagent, any house, room or other premises in the city to be used for the purpose of prostitution or lewdness.
- g) Among the circumstances which may be considered in determining whether such purpose is manifested are the following: that the person frequents, either on foot or in a motor vehicle, a known area of prostitution; repeatedly beckons to stop or attempts to stop, or engages known prostitutes in conversation; or stops the motor vehicle the person is the operator of and picks up or attempts to pick up a known prostitute. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest may be made for a violation of this section unless the arresting officer first affords the person an opportunity to explain the person's conduct, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

3. Evidence of Violation. Circumstances which may be considered in determining whether a violation of this section has occurred include, but are not limited to:

1. Attempting to determine the presence of a police officer by exposing or touching, or seeking to expose or touch, an intimate body part of another or of one's self, or asking, soliciting, encouraging or attempting to procure another to do the same.
2. Inquiring in any manner as to whether another person is a police officer.

4. Penalty:

- a) Any person violating this section and upon conviction shall be subject to a forfeiture of not less \$500.00 nor more than \$5,000.00 A higher penalty may be imposed for repeated offenses. Nothing in this section shall prevent the subject(s) from additional punishment under Wis. Stats. Ch. 944.

SECTION 3. This ordinance shall take effect and be in force from and after its date of passage and publication of same.

Dated this 5th day of September, 2023.

Adam Wachowski
President, City Council

Gregory E. Buckley
City Manager

Attest:

Amanda Baryenbruch
City Clerk

Approved as to form and legality:

John M. Bruce
City Attorney