

Chapter 30

OFFENSES AND MISCELLANEOUS PROVISIONS

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ARTICLE I. IN GENERAL**Sec. 30-1. State laws subject to forfeiture.**

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the village, provided, the penalty for commission of such offenses shall be limited to a forfeiture imposed under section 1-27. Any future amendments, revisions or modifications of the statutes incorporated in this section by reference are intended to be made part of this section.

Wis. Stats. § 167.10	Fireworks Regulated
Wis. Stats. § 175.25	Illegal Storage of Junked Vehicles
Wis. Stats. § 254.76	Careless Smoking
Wis. Stats. § 939.05	Aiding and Abetting
Wis. Stats. § 939.22	Words and Phrases Defined
Wis. Stats. § 941.01	Negligent Operation of a Vehicle Off Highway
Wis. Stats. § 940.19(1)	Battery
Wis. Stats. § 940.291	Failure of a Police Officer to Render Aid
Wis. Stats. § 941.10	Negligent Handling of Burning Materials
Wis. Stats. § 941.12	Interfering With Firefighting
Wis. Stats. § 941.13	False Alarms
Wis. Stats. § 941.20(1)	Reckless Use of Weapon
Wis. Stats. § 941.23	Carrying Concealed Weapon
Wis. Stats. § 941.24	Possession of Switchblade Knife
Wis. Stats. § 941.33	Hazing
Wis. Stats. § 941.35	Emergency Telephone Calls
Wis. Stats. § 941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
Wis. Stats. § 941.235	Carrying a Firearm in a Public Building
Wis. Stats. § 943.01(1)	Criminal Damage to Property
Wis. Stats. § 943.06	Molotov Cocktails
Wis. Stats. § 943.11	Entry Into Locked Vehicle
Wis. Stats. § 943.13	Trespass to Land
Wis. Stats. § 943.15	Entry Into Locked Site
Wis. Stats. § 943.20	Theft of Property
Wis. Stats. § 943.21	Fraud on Innkeeper
Wis. Stats. § 943.22	Cheating Tokens
Wis. Stats. § 943.23(2)	Operating Vehicle Without Owner's Consent
Wis. Stats. § 943.24(1)	Worthless Checks
Wis. Stats. § 943.34(1)	Receiving Stolen Property
Wis. Stats. § 943.37	Alteration of Property Identification Marks
Wis. Stats. § 943.38(3)	Forgery
Wis. Stats. § 943.41	Credit Card Crimes
Wis. Stats. § 943.50(4)(a)	Retail Theft
Wis. Stats. § 943.125	Entry Into Locked Coin Box
Wis. Stats. § 944.20	Lewd and Lascivious Behavior
Wis. Stats. § 944.21	Obscene Material and Performances
Wis. Stats. § 944.23	Making Lewd, Obscene or Indecent Drawings

Wis. Stats. § 944.30	Prostitution
Wis. Stats. § 944.31	Patronizing Prostitutes
Wis. Stats. § 944.33	Pandering
Wis. Stats. § 944.34	Keeping Place of Prostitution
Wis. Stats. § 945.01	Definitions Relating to Gambling
Wis. Stats. § 945.02	Gambling
Wis. Stats. § 945.04	Permitting Premises to be Used for Commercial Gambling
Wis. Stats. § 946.40	Refusing to Aid Officer
Wis. Stats. § 946.41	Resisting or Obstructing Officer
Wis. Stats. § 946.42(2)	Escape
Wis. Stats. § 946.69	Falsely Assuming to Act as Public Officer or Employee
Wis. Stats. § 946.70	Impersonating Peace Officer
Wis. Stats. § 946.72(2)	Tampering with Public Records and Notices
Wis. Stats. § 947.01	Disorderly Conduct
Wis. Stats. § 947.012	Unlawful Use of Telephone
Wis. Stats. § 947.013	Harassment
Wis. Stats. § 947.015	Bomb Scares
Wis. Stats. § 947.02	Vagrancy
Wis. Stats. § 947.06	Unlawful Assemblies
Wis. Stats. § 947.08	Crime Comics
Wis. Stats. § 951.01	Definitions
Wis. Stats. § 951.015	Construction and Application
Wis. Stats. § 951.02	Mistreating Animals
Wis. Stats. § 951.03	Dognapping or Catnapping
Wis. Stats. § 951.04	Leading Animal from Motor Vehicle
Wis. Stats. § 951.05	Transportation of Animals
Wis. Stats. § 951.06	Use of Poisonous and Controlled Substances
Wis. Stats. § 951.07	Use of Certain Devices Prohibited
Wis. Stats. § 951.08	Instigating Fights Between Animals
Wis. Stats. § 951.09	Shooting at Caged or Staked Animals
Wis. Stats. § 951.10	Sale of Baby Rabbits, Chicks and Other Fowl
Wis. Stats. § 951.11	Artificially Colored Animals; Sale
Wis. Stats. § 951.13	Providing Proper Food and Drink to Confined Animals
Wis. Stats. § 951.14	Providing Proper Shelter
Wis. Stats. § 951.15	Animals; Neglected or Abandoned; Police Powers
Wis. Stats. § 961.577	Drug Paraphernalia

State laws subject to forfeiture, OFFENCES AND MISCELLANEOUS PROVISIONS, of the Village Ordinances for the Village of Spring Valley, Pierce County, Wisconsin is hereby amended so as to include the following described and enumerated statutory provisions of Wisconsin State Statutes as same exist as of the date of passage of this Ordinance:

- Wis. Stat. Section 134.66 Sale of Tobacco to Minor
- Wis. Stat. Section 254.92 Purchase or Possession of Tobacco by Minor

In addition to those statutes specifically adopted and enumerated above, the Village of Spring Valley, Pierce

County, Wisconsin further adopts any and all statutory provisions of Wisconsin Statutes Chapters 938, 939 through 951, and 961, inclusive, that may be enforced and penalized under a Municipal Citation format and, as such, penalized under Section 1-27 of the Code of Ordinances for the Village of Spring Valley Pierce County, Wisconsin. In adopting those relevant statutory provisions of Wisconsin Statutes Chapters 938, 939 through 951, and 961 as stated and described herein, and the selected provisions of this section, any subsequent amendments, creations, renumbering or supplementation of those sections of the Wisconsin Statutes shall serve to modify and amend this section.

(Code 1988, § 9-1-1)

Secs. 30-2--30-30. Reserved.

ARTICLE II. PUBLIC SAFETY AND PEACE*

Sec. 30-31. Firearms and explosives.

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

Firearm means any instrumentality from or with which a shot, arrow, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device or gunpowder.

(b) *Discharge and possession of firearms regulated.* No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge within the village any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description or bow and arrow, or have any firearm, rifle, spring gun, air gun or pneumatic pellet gun or bow and arrow in his possession or under his control unless it is unloaded and enclosed or encased within a carrying case or other suitable container pursuant to state law, with the following exceptions:

- (1) This subsection shall not apply during hunting (gaming) seasons, which are subject to regulation by the department of natural resources (DNR) for areas outside of the designated no discharge of firearms zone, as determined by the village, and indicated by official village maps.
- (2) In addition, it shall be illegal to discharge a firearm within 200 yards of a building devoted to human occupancy within the corporate limits for lands outside of the no discharge of firearms zone.
- (3) The village may use its discretion in determining the boundaries of the no discharge of firearms zone as it relates to the demography of land within the corporate limits and the effect development may have upon such areas. Furthermore, the boundaries may be extended in response to dangerous circumstances, application by a property owner or to protect the health and safety of the general public.
- (4) It shall be illegal to pursue game, armed or disarmed, in the areas that have been designated as no discharge of firearms zones.

*Cross references: Public safety and public works, ch. 38.

(c) *Shooting into village permitted areas.* In the territory adjacent to or within the village's permitted areas, no person shall discharge any firearm in such a manner that the discharge shall enter or fall within the no discharge of firearms zones.

(d) *Shooting ranges and galleries.* This section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the village board, after an advisory recommendation from the chief of police, where proper safety precautions are taken.

(e) *Explosive devices.* No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the village without first obtaining a permit to do so from the chief of police.
(Code 1988, § 9-2-1)

Sec. 30-32. Carrying concealed weapons, numchuks, churkins and suchbais.

(a) *Prohibited.*

(1) No person within the village shall wear or, in any manner, carry under his clothes or conceal upon or about his person any deadly or dangerous weapon, provided this subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.

(2) For the purposes of this section, the term "dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

(b) *Public establishments.* No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public, except a bona fide weapons repair, display or sales establishment, unless such dangerous weapon is stored and concealed (other than on the person) so as not to be readily accessible to any person or patron. This subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment in the course of its regular business in accordance with state and federal law, nor to hinder a prospective customer from attempting to buy, sell or trade firearms to or from a retailer.

(c) *Specific concealed weapons prohibited.* No person within the village, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his person any pistol, revolver, firearm, slingshot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon.

(d) *Possession, sale and manufacture of certain weapons prohibited.*

(1) For the purposes of this subsection (d), the following definitions shall apply:

a. Numchuk and nunchaku mean an instrument consisting of two or more sticks, clubs or rods connected by a rope, cord, wire or chain.

b. Churkin means a round throwing knife consisting of several sharp points protruding from

a rounded disc.

c. *Sucbai* means a short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

(2) No person shall sell, manufacture, purchase, possess or carry a numchuk (also called a "nunchaku"), churkin, sucbai or similar weapon within the village.

(3) Any numchuk, churkin or sucbai shall be seized by a law enforcement officer and destroyed or turned over to the state crime laboratory for destruction.

(Code 1988, § 9-2-2)

Sec. 30-33. Safe use and transportation of firearms and bows.

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

Aircraft has the meaning given under Wis. Stats. § 114.002(3).

Encased means enclosed in a case that is expressly made for the purpose of containing a firearm, and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.

Firearm means a weapon that acts by force of gunpowder.

Highway has the meaning given under Wis. Stats. § 340.01(22).

Motorboat has the meaning given under Wis. Stats. § 30.50(6).

Roadway has the meaning given under Wis. Stats. § 340.01(54).

Unloaded means any of the following:

(1) Having no shell or cartridge in the chamber of a firearm or the magazine attached to a firearm.

(2) In the case of a caplock muzzle-loading firearm, having the cap removed.

(3) In the case of a flintlock muzzle-loading firearm, having the flashpan cleaned of powder.

Vehicle has the meaning given under Wis. Stats. § 340.01(74), and includes a snowmobile, as defined under Wis. Stats. § 340.01(58a).

(b) *Motorboats and vehicles; highways and roadways.* Except as provided in subsection (c) of this section, no person may:

- (1) Place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or the bow or crossbow is unstrung or enclosed in a carrying case.
- (2) Place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or the bow or crossbow is unstrung or enclosed in a carrying case.
- (3) Load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
- (4) Load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within 50 feet in the center of a road.

A person who violates subsections (1)--(4) of this subsection (b) is subject to a forfeiture of not more than \$100.00.

(c) *Exceptions.*

- (1) Subsection (b) of this section does not apply to any of the following, who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within 50 feet of the center of a roadway:
 - a. A peace officer, as defined under Wis. Stats. § 939.22(22).
 - b. A member of the U.S. armed forces.
 - c. A member of the National Guard.
 - (2) Subsections (b)(1), (2) and (3) of this section do not apply to the holder of a scientific collector permit under Wis. Stats. § 29.17, who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
 - (3) Subsections (b)(2) and (3) of this section do not apply to the holder of a permit under Wis. Stats. § 29.09, who is hunting from a standing automobile in accordance with such subsection.
 - (4) Subsection (b)(2) of this section does not prohibit a person from leaning an unloaded firearm against a vehicle.
 - (5) Subsection (b)(4) of this section does not apply to a person who is legally hunting small game with a muzzle-loading firearm or a shotgun loaded with shotshell or chilled shot number BB or smaller, if the surface of the highway or roadway is any material other than concrete or blacktop.
- (Code 1988, § 9-2-3)

Sec. 30-34. Throwing or shooting arrows, stones and other missiles.

It shall be unlawful for any person to discharge or throw, by any means, any dangerous missile,

object, arrow, stone, snowball or other missile within the village; provided, however, upon written application to the chief of police and village board, a person may be granted permission by the village board to construct and maintain supervised archery ranges if, in the opinion of the village board, the construction or maintenance of such ranges will not endanger the public health and safety.

(Code 1988, § 9-2-4)

Sec. 30-35. Sale and discharge of fireworks restricted.

No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks, except toy pistol paper caps, sparklers and toy snakes, within the village limits, unless he shall be authorized by a fireworks permit as provided in chapter 22, article VII, of this Code. For the purposes of this section, the term "fireworks" shall have the meaning as provided in Wis. Stats. § 167.10(1), and shall be deemed to include all rockets or similar missiles containing explosive fuel.

(Code 1988, § 9-2-6)

Sec. 30-36. Obstructing streets and sidewalks.

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

Block means to interfere with unobstructed travel by any means, including, but not limited to, standing on the part of the walk that is fit for travel, or placing any object or vehicle on such walk.

Sidewalk means any sidewalk owned or maintained by the village. Such term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

(b) *Unlawful acts.*

- (1) *Obstructing streets, bridges and public grounds.* No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the village in such a manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic, or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.
- (2) *Blocking sidewalk.* No person shall block any sidewalk by obstructing the sidewalk so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or the street.

(c) *Interpretation.* This section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or make a speech, provided that such person shall not stand in a location so that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or the street. If two or more persons are engaged in talking while they are stopped on a sidewalk, they shall not stand in a location so as to completely prevent any pedestrian from passing them on the sidewalk.

(Code 1988, § 9-2-7)

Cross reference – Streets, § 38-141 et seq.

Sec. 30-37. Loud and unnecessary noise.

(a) *Prohibited.* It shall be unlawful for any person to make or continue, or cause to be made or continued, any loud and unnecessary noise.

(b) *Enumerated.* The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

- (1) Horns and signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the village for longer than three seconds in any period of one minute or less, except as a danger warning; the creation of any unreasonably loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device, except when operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is held up for any reason.
- (2) Radios, phonographs and similar devices. The playing, using or operating of, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m., in a manner so as to be plainly audible at the property line of the building, structure or vehicle in which it is located, shall be prima facie evidence of a violation of this section.
- (3) Loudspeakers and amplifiers for advertising. The playing, using or operating of, or permitting to be played, used or operated, any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (4) Animals and birds. The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
- (5) Steam whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger or upon the request of proper village authorities.
- (6) Engine exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motorboat, except through a muffler or other device which will effectively prevent loud or explosive noises from such engine.
- (7) Construction or repair of buildings. The erection, including excavation, demolition, alteration or repair of any building, as well as the operation of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the building inspector shall have the authority, upon determining that the loss of

inconvenience which would result to any party in interest would be extraordinary and of such a nature as to warrant special consideration, to grant a permit for a period necessary, within which time such work and operation may take place within the hours of 10:00 p.m. and 7:00 a.m.

- (8) Schools, courts, churches and hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court, while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of the institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in the streets indicating a school, hospital or court street.
- (9) Prohibiting the use of compression (jake) brakes. Compression brakes are prohibited. It shall be unlawful for any vehicle equipped with compression brakes (jake brakes) to downshift and release the clutch to utilize the vehicle's engine to slow in order to meet proper speed restrictions within the village, except in case of extreme emergency.

Any person violating the provisions of the Ordinance shall have committed a traffic infraction and a penalty shall be imposed.

- (c) *Exceptions.* The provisions of this section shall not apply to:
 - (1) Any vehicle of the village while engaged in necessary public business.
 - (2) Excavations or repairs of streets or other public construction at night by or on behalf of the village, county or state when the public welfare and convenience renders it impossible to perform such work during the day.
 - (3) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
- (d) *Stationary noise limits.*
 - (1) *Maximum permissible sound levels.*

a. Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels when measured at the property line:

<i>District</i>	<i>Noise Rating-- Daytime (dB)</i>	<i>Noise Rating-- Nighttime (dB)</i>
Residential	60	50
Commercial	70	70
All other	75	75

b. Ambient noise is the all-encompassing noise associated with a given source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured.

Ambient noise is a factor, and the subject noise shall exceed the ambient noise by five dB in any octave band to be designated as excessive.

- c. Pure tones and impulsive noises are factors. Five noise rating numbers shall be taken from the table in subsection (d)(1)a of this section, if the subject noise consists primarily of a pure tone or is impulsive in character.
- (2) *Construction noise.* Construction equipment in any district may be operated between the hours of 7:00 a.m. and 7:00 p.m., provided that the equipment does not exceed a maximum sound level of 80 dB(A) when measured at the property line of the location at which the equipment is in use.
- (3) *Noise in residential districts.* In residential districts, the person in violation of this section shall be ordered by the monitoring officer to immediately reduce the sound pressure to acceptable levels.
- (4) *Operation of certain equipment.* Lawnmowers, chainsaws, powered garden equipment, electric insect killing/repelling devices and other nonconstruction maintenance equipment shall be operated only between the hours of 7:00 a.m. and 9:00 p.m., unless the noise produced is within the specified noise levels measured at the property line of the location at which the equipment is in use.
- 5) *Exemptions.* Operations of emergency equipment shall be exempt from this section. Snowblowers not operated on a commercial basis shall be exempt from this section when used to gain access to a village street. For the purposes of this subsection, the term "emergency equipment" includes ambulances, police, fire, snow removal, civil defense sirens, etc., which are necessary for the health, safety and protection of the citizens of the village.
- (6) *Methods of measurement.*
 - a. Equipment. Noise measurement for equipment shall be made with a sound level meter.
 - b. Location of meter and measurement. Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three feet above the ground and at least three feet away from walls, barriers, obstructions and all other sound reflective surfaces.
- (7) *Granting exemption.* The village board may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this section for existing industries.
- (e) *Amplifying device permits.*
 - (1) Required. The use of a loudspeaker or amplifying device on the streets or in the parks of the village is prohibited, unless the party desiring to use such loudspeaker or amplifying device obtains a permit from the chief of police prior to such use.

- (2) Grounds for revocation. The chief shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, method in which it is being used or the location in which it is being operated.
 - (3) Time restrictions for use. The chief shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 9:00 p.m.; nor shall a permit be granted to any person who, in the opinion of the chief of police, uses such loudspeaker or amplifying device in a manner or for a purpose so as to constitute a nuisance.
- (Code 1988, § 9-2-9; Ord. of 8-10-2005(1))

Sec. 30-38. Disorderly conduct.

- (a) *Prohibited.* No person within the village shall:
 - (1) In any public or private place, engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or annoy or disturb any other person.
 - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation, other than a bona fide athletic contest.
 - (b) *Motor vehicles.* No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.
 - (c) *Defecating or urinating in public places.* It shall be unlawful for any person to defecate or urinate outside of designated sanitary facilities; upon any sidewalk, street alley, public parking lot, park, playground, cemetery or other public area within the village; upon any private property in open view of the public; in the halls, stairways or elevators of public or commercial buildings; or indecently expose his person.
- (Code 1988, § 9-2-10)

Sec. 30-39. Possession of controlled substances.

- (a) *Unlawful act.* It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Wis. Stats. ch. 961.
 - (b) *Marijuana.* No person shall possess any amount of marijuana, tetra-hydrocannabinol or any derivative thereof, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a licensed physician or pharmacist for a valid medical purpose.
 - (c) *Paraphernalia.* No person shall possess drug paraphernalia prohibited by Wis. Stats. § 961.577.
- (Code 1988, § 9-2-11)

Sec. 30-40. Unauthorized presence on school property.

- (a) Except as provided in subsection (b) of this section, it shall be unlawful for any person to be

present in, loiter or enter into any public school building, school parking lot or upon any public schoolgrounds without the permission of the school principal, custodian or other person in charge thereof between the hours of 7:30 a.m. and 4:30 p.m. on official school days.

(b) This section shall not apply to:

- (1) Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof to leave the school building or schoolgrounds;
- (2) Persons coming into the school building or schoolgrounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within the school premises, but such exception shall apply only to the portion of the premises on which facilities are located and during the hours such facilities are specifically open to the general public, or an invited portion thereof;
- (3) Parents or legal guardians of a regularly enrolled student; however, such parent or legal guardian may be required to register at the school office.

(c) The exceptions set forth in subsection (b) of this section shall not apply to any person who, while in school buildings or on schoolgrounds, commits or attempts to commit any act prohibited by statute or ordinance.

(d) All entrances to school buildings shall be posted with a notice stating, "Entry Into School Building by Unauthorized Persons Prohibited." All schoolgrounds shall be posted with a notice stating, "Entry Upon Schoolgrounds by Unauthorized Persons Prohibited."
(Code 1988, § 9-2-12)

Sec. 30-41. Failure to obey lawful order.

It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his duties.
(Code 1988, § 9-2-13)

Sec. 30-42. Highway obstructions.

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

Highway means any public way or thoroughfare, including bridges thereon, any roadways commonly used for vehicular traffic, whether public or private, any railroad, including street and interurban railways, and any navigable waterway or airport.

(b) It is unlawful for any person to create an unreasonable risk and high probability of causing death or great bodily harm to another by placing an obstacle in or upon a highway, damaging a highway, removing or tampering with a sign or signal used for the guidance of vehicles, giving a false traffic

signal or otherwise interfering with the orderly flow of traffic.
(Code 1988, § 9-2-14)

Sec. 30-43. Operation of hang gliders and ultralight aircraft.

(a) The operation within the village of hang gliders and/or ultralight aircraft, either motorized or nonmotorized, is prohibited without first having obtained a license therefor in accordance with this section.

(b) Licensing of hang glider operations within the village shall be performed by the police department, which shall issue such license upon showing:

- (1) A description of the type of operation, including the time, place of proposed operation and type of aircraft proposed to be operated;
- (2) The proposed operation can be carried out with safety to persons and property; and operation.
(Code 1988, § 9-2-15)

Secs. 30-44--30-70. Reserved.

ARTICLE III. AGAINST PROPERTY

Sec. 30-71. Destruction of property.

(a) *Prohibited.* No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within and belonging to the village or its departments, the Spring Valley School District or to any private person, without the consent of the owner or proper authority.

(b) *Parental liability.* Pursuant to Wis. Stats. § 895.035, the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; however, such liability shall not exceed the statute.

(c) *Unlawful removal of property.* It shall be unlawful for any person to take and carry away the property of another without the owner's consent of the intention to do so.
(Code 1988, § 9-3-1)

Sec. 30-72. Littering.

(a) *Prohibited.* No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the village, or upon property within the village owned by the Spring Valley School District or any private person, or upon the surface of any body of water within the village.

(b) *Litter from conduct of commercial enterprise.*

- (1) *Scope.* The provisions of this subsection (b) shall apply to all sales, promotions and other

commercial ventures that result in litter being deposited on any street, alley or other public way.

- (2) *Cleanup required.* Any person carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the litter within 12 hours of the time the litter is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
 - (3) *Right of village upon failure of litterer to clean up; responsibility for expense.* If any person fails to pick up any litter as required by subsection (b)(1) of this section within the time specified, the village shall arrange to have the litter picked up by village crews or a private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of 20 percent for administrative expenses, shall be charged to the person that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the village attorney's office, to collect the sum. The charge shall be in addition to any forfeiture or other penalty for violation of this section.
 - (c) *Dumping of refuse, leaves and grass clippings in gutters.* No person shall deposit any refuse, leaves or grass clippings in any gutter along any public street, road, alley or highway.
 - (d) *Handbills.*
 - (1) *Scattering.* It shall be unlawful to deliver any handbill or advertising material to any premises in the village, except by the handbill being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.\
 - (2) *Papers in public places.* It shall be unlawful to leave any handbill, advertising material or newspaper unattended in any street, alley, public building or other public place, provided that this subsection shall not prohibit the sale of newspapers in vending machines.
- (Code 1988, § 9-3-2)

Sec. 30-73. Abandoned iceboxes, refrigerators or containers.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control, in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snaplock or other locking device which may not be released from the inside without first removing the door or lid, snaplock or other locking device from the icebox, refrigerator or container, unless such icebox, refrigerator or container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

(Code 1988, § 9-3-3)

Sec. 30-74. Retail theft.

(a) Whoever intentionally alters an indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without

consent and with the intent to permanently deprive the merchant of possession or the full purchase price may be penalized as provided in subsection (d) of this section.

(b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payment in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person concealing such goods.

(c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian if such detained person is a minor. The detained person must be promptly informed of the purpose for the detention and may make telephone calls, but shall not be interrogated or searched against his will before the arrival of a police officer, who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

(d) If the value of the merchandise does not exceed \$1,000.00, any person violating this section shall forfeit not more than \$200.00. If the value of the merchandise exceeds \$1,000.00, this section shall not apply and the matter shall be referred to the district attorney for criminal prosecution.

(Code 1988, § 9-3-4)

State law reference – Theft generally, Wis. Stats. § 943.50.

Sec. 30-75. Storage of junk, etc., regulated.

No person shall store junked or discarded property, including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris, in the neighborhood, except upon the issuance of a permit by the village board. The chief of police or building inspector may require, by written order, any premises violating this section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

(Code 1988, § 9-3-5)

Sec. 30-76. Issuance of worthless checks.

(a) Whoever issues any check or other order for the payment of money less than \$1,000.00, which, at the time of issuance, he intends shall not be paid, is guilty of a violation of this section.

(b) Any of the following is prima facie evidence that the person, at the time he issued the check or other order for payment of money, intended it should not be paid:

- (1) Proof that, at the time of issuance, the person did not have an account with the drawee;
- (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed to pay the check or other order within five days after receiving

notice of nonpayment or dishonor; or

- (3) 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 to pay the check or other order within five days after receiving notice of nonpayment or dishonor.

(c) This section does not apply to a postdated check or a check given in past consideration, except a payroll check.

(d) Any person violating any provision of this section shall forfeit not less than \$50.00 if the worthless check is for an amount equal to or less than \$1,000.00.

(Code 1988, § 9-3-6)

Sec. 30-77. Damaging or tampering with coin machines, coin telephones and other vending machines.

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

Coin machine means any device or receptacle designed to receive money or anything of value. Such term includes a depository box, parking meter, vending machine, pay telephone, money-changing machine, coin-operated phonograph and amusement machine, if such machines are designed to receive money or other thing of value.

(b) Without lawful authority, no person shall open, remove or damage any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possess a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the village.

(Code 1988, § 9-3-9)

Sec. 30-78. Damage to public property.

(a) Prohibited. No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property within the village.

(b) Streetlamps and windows. No person shall break glass in any streetlamps or windows of any building owned or occupied by the village.

(Code 1988, § 9-3-10)

Sec. 30-79. Disturbing cemetery property.

No person, except the owner of a cemetery lot or a cemetery employee, shall cut, remove, injury or carry away flowers, trees, plants or vines from any cemetery lot or property; nor shall any person deface,

injure or mark upon any cemetery markers, headstones, monuments, fences or structures; nor shall any person, other than the owner, injure, carry away or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot.

(Code 1988, § 9-3-11)

Sec. 30-80. Violations; penalties.

In addition to section 1-27 or any other penalty imposed for violation of any section of this article, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parents of any unemancipated minor child who violates section 30-71 may also be held liable for the costs of replacing or repairing such damaged or destroyed property in accordance with statute. Nothing in this article shall prevent the police department from referring violations of the provisions of this article to the district attorney's office in the interest of justice.

(Code 1988, § 9-3-12)

Secs. 30-81--30-110. Reserved.

ARTICLE IV. OBSCENITY

Sec. 30-111. Exposing minors to harmful materials.

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

Harmful to minors means the quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which, taken as a whole, appeals to the prurient interest in sex, portrays sexual conduct in a patently offensive way and does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest, depicts or describes sexual conduct in a patently offensive way, and has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community, as a whole, with respect to what is suitable material for minors.

Knowingly means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both the:

- (1) Character and content of any material described in this section which is reasonably suspect under this section; and
- (2) Age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability under this section if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

Knowledge of the minor's age means:

- (1) Knowledge or information that the person is a minor; or

- (2) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.

Minor means any person under the age of 18 years.

Nudity means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Sexual conduct means acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus and excretory functions, lewd exhibition of the genitals, especially in a stimulated condition and sexual relations between humans and animals.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Sadomasochistic abuse means 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.

(b) *Exhibition of motion pictures, etc., with sexual content.* It shall be unlawful for any person to knowingly exhibit, for a monetary consideration, to a minor or to knowingly sell to a minor an admission ticket or pass, or to knowingly admit a minor, for a monetary consideration, to a premises where a motion picture, show or other presentation is exhibited which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.

(c) *Sell or loan of sexually oriented material.* It shall be unlawful for any person to knowingly sell or loan, for a monetary consideration, to a minor any:

- (1) Picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.
- (2) Book, pamphlet, magazine, printed matter, however produced, or sound recording which contains any material enumerated in subsection (c)(1) of this section, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(d) *Admission to premises where nudity, etc., exhibited.* It shall be unlawful for any person to knowingly admit a minor to any premises where nudity, sexual conduct or sadomasochistic abuse is exhibited which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.
(Code 1988, § 9-4-1)

Sec. 30-112. Obscene materials and performances.

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

Obscene material means a writing, picture, sound recording or film, and obscene performance means a live exhibition before an audience, which:

- (1) Applying contemporary community standards, the average person would find appeals to prurient interests, if taken as a whole;
- (2) Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
- (3) Lacks serious literary, artistic, political or scientific value as measured by objective standards, if taken as a whole.

Sexual conduct means the commission or simulation of any of sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.

(b) *Unlawful acts.* Whoever does any of the following with knowledge of the character and content of the material or performance is guilty of a violation of this article:

- (1) Imports, prints, advertises, sells, has in his possession for sale or publishes, exhibits or transfers any obscene material.
- (2) Advertises, produces or performs in any obscene performance.
- (3) Has any obscene material in his possession, with the intent to transfer or exhibit such material to a person under the age of 18 years.
- (4) Transfers or exhibits any obscene material to a person under the age of 18 years.
- (5) Requires that a retailer accept obscene material as a condition to the purchase of periodicals.

(c) *Review of material.* In determining whether material is obscene under subsections (1) and (3) of the definition of "obscene material and obscene performance" as set forth in subsection (a) of this section, a judge or jury shall examine individual pictures or passages in the context of the work in which they appear.

(Code 1988, § 9-4-2)

Sec. 30-113. Nude dancing and certain sexual conduct in places of business and licensed establishments.

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

Licensed establishment means any establishment licensed by the village board to sell alcoholic beverages pursuant to Wis. Stats. ch. 125.

Licensee means the holder of a retail "class A," "class B," class "B," class "A" or class "C" license, granted by the village board pursuant to Wis. Stats. ch. 125.

(b) *Unlawful performances.* It is unlawful for any person to perform or engage in, or for any licensee or manager or agent of a licensee or place of business to permit any person, employee, entertainer or patron to perform or engage in, any live act, demonstration, dance or exhibition on the premises of a place of business or licensed establishment which:

- (1) Shows such person's genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering;
- (2) Shows any portion of the female breast below a point immediately above the top of the areola; or
- (3) Shows the covered male genitals in a discernibly turgid state.

(c) *Unlawful acts and conduct.* The acts or conduct set forth in this subsection are prohibited in any place of business or licensed establishments. No licensee, owner, agent, manager or employee shall:

- (1) Encourage or permit any person on the premises of any such establishment to touch, caress or fondle the areas referred to in subsection (b) of this section.
- (2) Permit any employee or person to wear or use any device or covering, exposed to view, which simulates the areas referred to in subsection (b) of this section.
- (3) Permit any person to perform acts of, or which, simulate:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. Touching, caressing or fondling of the breast, buttocks, anus or genitals.
 - c. Display of the pubic hair, anus, vulva, genitals or the nipple or areola of the female breast.
- (4) Permit any person to use artificial devices or inanimate objects to depict any of the prohibited activities described in subsection (c)(3) of this section.
- (5) Permit the showing of films, still pictures, electronic reproductions or any other visual reproductions depicting:
 - a. Acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
 - b. Any person being touched, caressed or fondled on the breast, buttocks, anus or genitals.

- c. Scenes wherein a person displays the vulva, anus or genitals.
 - d. Scenes wherein artificial devices or inanimate objects are employed to depict, or drawings are employed to portray, any of the prohibited activities described in subsection (c)(5)a--c of this section.
- (6) Permit any employee or person under contract to perform on the premises or dance on any table, bar or other elevated platform, except on a duly designated stage designed exclusively for the entertainment of patrons of the premises, and such stage shall be located at least three feet from any patron.
- (7) Permit any prostitute to loiter on the premises with the intent to solicit prostitution.
- (d) *Exemptions.* The provisions of this section do not apply to the following licensed establishments:
- (1) Theaters;
 - (2) Performing arts centers;
 - (3) Civic centers; and
 - (4) Dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering of entertainment to customers which is intended to provide sexual stimulation or gratification to such customers, and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.
- (e) *Licensing requirements.* Notwithstanding anything otherwise stated, required or indicated in this section, nude dancing and certain sexual conduct in places of business and licensed establishments as described and referred to under the terms of this section shall, under no circumstances, be allowed or engaged in upon or within any place of business or licensed establishment within the village without the sponsor of such activity and the owner of any such business or enterprise first meeting the following requirements:
- (1) Payment to the village of an annual fee as set by the village board from time to time and on file in the village offices, for the purposes of assisting in the offsetting of any community impact caused or anticipated by such activities and to assist in subsidizing anticipated and required additional necessary policing time by the village's law enforcement agency.
 - (2) Under no circumstances, at any time, shall alcoholic beverages be served upon any such licensed premises during the course of any such licensed activity.
 - (3) Any and all activities licensed under the terms of this section shall, at all times, be contained within a commercially zoned district located within the village which falls a distance of at least 1,500 feet from any public or private school and a minimum of 500 feet from any residential property.

- (4) Hours of operation, with respect to any such licensed activities, shall be restricted, at all times, so as to be allowed only between the hours of 9:00 p.m. and 1:00 a.m., regardless of the weekday upon which such activity is conducted.

(f) *Violations; penalties.* Any person who violates any of the provisions of this section shall be subject to a forfeiture of not less than \$100.00, nor more than \$1,000.00 per violation. A separate offense and violation shall be deemed committed on each day on which a violation occurs or continues. In addition, a violation of this section constitutes sufficient grounds for the suspension, revocation or nonrenewal of an alcoholic beverage license under Wis. Stats. § 125.12.

(Ord. of 5-5-1999)

Editor's note – In *Barnes v. Glen Theater, Inc.*, 501 US 560 (1991), the Supreme Court held the Indiana statute requiring G-strings and pasties on nude dancers in public places (not forums) was not violative of the First Amendment. Of the separate businesses involved in this case, one served alcohol, and in the other, no alcoholic beverages were served.

Secs. 30-114--30-140. Reserved.

ARTICLE V. ALCOHOLIC BEVERAGES*

Sec. 30-141. Definitions.

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

Alcoholic beverage includes all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half of one percent or more of alcohol by volume, and are fit for use for beverage purposes.

Public area means any location within the village which has open access to persons not requiring specific permission of the owner to be at such location, including all parking lots serving commercial establishments.

Underage person means any person under the legal drinking age, as defined by statute.
(Code 1988, § 9-5-1(b))

Cross reference – Definitions generally, § 1-2.

Sec. 30-142. Outside consumption in public areas.

- (a) *Regulated.*
 - (1) It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drive or other public area within the village, or on private property without the

***Cross reference** – Alcoholic beverages and nonalcohol events, § 22-31 et seq.

owner's consent, except at licensed premises.

- (2) It shall be unlawful for any person to consume or have in his possession any open container containing an alcoholic beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the village, except at licensed premises.
- (b) *Parks.* It shall be unlawful for any person to drink or have in their possession any alcoholic beverage in any village park between the hours of 10:30 p.m. and 6:00 a.m., except at licensed premises.
- (c) *Private property held open for public use.* It shall be unlawful for any person to consume any alcoholic beverage upon any private property held open for public use within the village, unless the property is specifically named as being part of a licensed premises.
 - (1) It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcoholic beverage.
 - (d) *Leaving licensed premises with open container.*
 - (2) It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcoholic beverage.
 - (3) It shall be unlawful for any patron to remove an original unopened package, container or bottle containing any alcoholic beverage from a licensed premises or a retail class "A" licensed establishment between the hours proscribed by Wis. Stats. § 125.32(3)(b).
 - (e) *Picnic beer permits for parks.*
 - (1) It shall be unlawful for any group of persons exceeding 20 persons to consume any alcoholic beverages in any park areas without first obtaining a picnic beer permit from the village. Picnic beer permits shall be issued by the village administrator, and a copy of the permit shall be sent to the chief of police.
 - (2) Applicants for special class "B" permits shall fully comply with the requirements of section 22-64.
 - (3) The sale of fermented malt beverages from remote sites (sites other than the main point of sale facility) shall be prohibited after 9:00 p.m.
 - (f) *Exceptions.*
 - (1) The provisions of this section may be waived by the village board for duly authorized events.
 - (2) Any organization which has been issued a special class "B" fermented malt beverage picnic license pursuant to this section, provided that the provisions of this article and chapter 22, article II are fully complied with.

(Code 1988, § 9-5-1(a))

Sec. 30-143. Sales to underage or intoxicated persons restricted.(a) *Underage persons.*

- (1) No person may procure for, sell, dispense or give away any fermented malt beverage to any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
- (b) *Violations of subsection (a); penalties.* A person who commits a violation of subsection (a) of this section is subject to a forfeiture of:
 - (2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age, or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.
 - (2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age, or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.
 - (1) Not more than \$500.00 if the person has not committed a previous violation within 12 months of the violation; or
 - (2) Not less than \$200.00, nor more than \$500.00 if the person has committed a previous violation within 12 months of the violation.

In addition to the forfeitures provided in subsections (b)(1) and (2) of this section, a court shall suspend any license issued under chapter 22 of this Code to a person violating this section pursuant to Wis. Stats. § 125.07(1)(b)3.

(c) *Intoxicated persons.*

- (1) No person may procure for, sell, dispense or give away alcoholic beverages to a person who is intoxicated.
- (2) No licensee or permittee may sell, vend, deal or traffic in alcoholic beverages to or with a person who is intoxicated.

(d) *Violations of subsection (c); penalties.* Any person who violates subsection (c) of this section shall be subject to a forfeiture of not less than \$100.00, nor more than \$500.00, or be imprisoned for not more than 60 days, or both.

(Code 1988, § 9-5-2)

Sec. 30-144. Presence of underage persons in places of sale.

- (a) *Restrictions.* An underage person not accompanied by his parent, guardian or spouse who has

attained the legal drinking age may not, for any purpose, enter or be on any premises for which a license or permit for the retail sale of alcoholic beverages has been issued, except the transaction of business pertaining to the licensed premises with or for the licensee or his employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This subsection does not apply to:

- (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
- (2) An underage person who enters or is on a "class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages, other than alcoholic beverages, and an underage person entering the premises may not remain on the premises after such purchase.
- (3) Hotels, drugstores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities, as defined in Wis. Stats. § 125.51(5)(b)1.d, which are owned by a county or municipality.
- (4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Wis. Stats. chs. 27 and 28, and parks owned or operated by agricultural societies.
- (5) Ski chalets, golf clubhouses and private tennis clubs.
- (6) Premises operated under both a class "B" or "class B" license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a class "B" or "class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcoholic beverages, but the presumption may be rebutted by competent evidence.
- (7) An underage person who enters (7) remains on a class "B" or "class B" premises for the purpose of transacting business at an auction or market as defined in Wis. Stats. § 125.07(3)(a)7, if the person does not enter or remain in a room where alcoholic beverages are sold or furnished.
- (8) An underage person who enters or remains in a room on a class "B" or "class B" licensed premises which is separate from any room where alcoholic beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcoholic beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this subsection. An underage person may enter and remain on a class "B" or "class B" premises under this subsection only if the municipality which issued the class "B" or "class B" license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subsection, and the law enforcement agency responsible for enforcing the ordinance issues to the class "B" or class B" licensee a written authorization permitting underage persons to be present under this subsection on the date specified in the authorization. Before issuing such authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger the underage persons' health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on

which underage persons will be present on the premises.

(b) *Violations; penalties.* A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of subsection (a) of this section is subject to a forfeiture of not more than \$500.00.

(Code 1988, § 9-5-3)

Sec. 30-145. Violations by underage persons; prohibitions; penalties.

(a) Any underage person who does any of the following is guilty of a violation:

- (1) Procures, or attempts to procure, alcoholic beverages.
- (2) Knowingly possesses or consumes intoxicating liquor.
- (3) Enters or is on licensed premises in violation of section 30-144(a).
- (4) Falsely represents his age for the purpose of receiving alcoholic beverages from a licensee or permittee.

(b) Any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes a fermented malt beverage is guilty of a violation.

(c) Any person violating subsections (a) or (b) of this section is subject to the following penalties:

- (1) For a first violation, a forfeiture of not more than \$50.00, suspension of the person's operating privilege as provided under Wis. Stats. § 343.30(6)(b)1, participation in a supervised work program under subsection (d) of this section, or any combination of such penalties.
- (2) For a violation committed within 12 months of a previous violation, either a forfeiture of not more than \$100.00, suspension of the person's operating privilege as provided under Wis. Stats. § 343.30(6)(b)2, participation in a supervised work program under subsection (d) of this section, or any combination of such penalties.
- (3) For a violation committed within 12 months of two or more previous violations, either a forfeiture of not more than \$150.00, revocation of the person's operating privilege under Wis. Stats. § 343.30(6)(b)3, participation in a supervised work program under subsection (d) of this section, or any combination of such penalties.

(d) If the court orders a person to participate in a supervised work program, the court shall set standards for the program within the budgetary limits established by the village board. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the county department of public welfare or a community agency approved by the court. The supervised work program shall be of a constructive nature, designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an

agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.

(e) When a court revokes or suspends a person's operating privilege under subsection (c) of this section, the department of transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this subsection may not disclose the information to any other person or agency.

(f) A person who is under 18 years of age on the date of disposition is subject to Wis. Stats. ch. 938, unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Wis. Stats ch. 938.

(g) Subsections (a) and (b) of this section do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.

(h) Subsections (a) and (b) of this section do not prohibit an underage person employed by a brewery, winery or facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcoholic beverages during regular working hours and in the course of employment.

(Code 1988, § 9-5-4)

Sec. 30-146. Defenses.

(a) *Established.* Proof of the following facts by a seller of alcoholic beverages to an underage person is a defense to any prosecution for a violation of this article:

- (1) The purchaser falsely represented in writing, and supported with other documentary proof, that he had attained the legal drinking age.
- (2) The appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
- (3) The sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.

(b) *Book required to be kept by licensees and permittees.* Every retail alcoholic beverage licensee or permittee shall cause a book to be kept for the purpose of this section. The licensee or permittee or his employee shall require any person who has shown documentary proof that he has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcoholic beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

(Code 1988, § 9-5-5)

State law reference – Similar provisions, Wis. Stats. § 125.07(6), (7).

Sec. 30-147. Falsified or altered identification cards by underage persons.

(a) Any person who has not attained the legal drinking age, other than one authorized by Wis. Stats. § 125.09, who makes, alters or duplicates an official identification card may be fined not less than \$50.00, nor more than \$500.00, or be imprisoned not less than ten days, nor more than 30 days, or both.

(b) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than \$50.00, nor more than \$100.00, or be imprisoned not more than ten days, or both.

(c) Any underage person who does any of the following is subject to the penalties specified under section 30-145(c) or (d):

- (1) Intentionally carries an official identification card not legally issued to him, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this subsection.
- (2) Makes, alters or duplicates an official identification card.
- (3) Presents false information to an issuing officer in applying for an official identification card.
(Code 1988, § 9-5-6)

Sec. 30-148. Possession on schoolgrounds.

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

Motor vehicle means a motor vehicle owned, rented or consigned to a school.

School means a public, parochial or private school which provides an educational program for one or more grades between grades 1 and 12, and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

School administrator means the person designated by the governing body of a school as being ultimately responsible for the ordinary operations of a school.

School premises means premises owned, rented or under the control of a school.

(b) *Where prohibited.* Except as provided by subsection (c) of this section, no person may possess or consume alcoholic beverages:

- (1) On school premises;
- (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or

(3) While participating in a school sponsored activity.

(c) *Exception.* Alcoholic beverages may be possessed or consumed on a school premises in motor vehicles or by participants in school sponsored activities if such possession or consumption is specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.

(d) *Violations; penalties.* A person who violates this section is subject to a forfeiture of not more than \$200.00, except that the penalties applicable to underage persons are as provided in Wis. Stats. § 48.344 and section 30-145(c) and (d).

(Code 1988, § 9-5-7)

Sec. 30-149. Adults permitting or encouraging underage violations.

(a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the person or under the person's control. This subsection does not apply to alcoholic beverages used exclusively as part of a religious service.

(b) No adult may intentionally encourage or contribute to a violation of section 30-145(a) or (b).

(c) A person who violates this section is subject to a forfeiture of not more than \$200.00.

(Code 1988, § 9-5-8)

Sec. 30-150. Solicitation of drinks.

Any licensee, permittee or bartender of a retail alcoholic beverage establishment covered by a license or permit issued by the village who permits an entertainer or employee to solicit a drink of any alcoholic beverage defined in Wis. Stats. § 125.02(1), or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed in violation of this section.

(Code 1988, § 9-5-9)

Secs. 30-151--30-180. Reserved.

ARTICLE VI. JUVENILES

Sec. 30-181. Curfew.

(a) *Established.* It shall be unlawful for any person under 16 years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, schoolgrounds, swimming beach, cemetery, playground, public building or any other public place within the village between the hours of 10:30 p.m. and 5:00 a.m., Sunday through Thursday nights, and 12:00 midnight and 5:00 a.m., Friday and Saturday nights, unless accompanied by his parent or guardian or person having lawful custody and control of his person, or unless there exists a reasonable necessity therefor. The fact that a child who is unaccompanied by his parent, guardian or other person having legal custody is found upon any such public place during the such hours shall be prima facie evidence that the child is there

unlawfully, and that no reasonable excuse exists therefor.

(b) *Exceptions.*

(1) This section shall not apply to a child:

- a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
- b. Who is on his own premises or in the areas immediately adjacent thereto.
- c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
- d. Who is returning home from a supervised school, church or civic function.
- e. Who is engaged in interstate travel.

(2) The exceptions set forth in subsection (b)(1) of this section shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(c) *Responsibility of parents, guardians or persons having lawful custody.* It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under 16 years of age to allow or permit such person to violate the provisions of subsection (a) or (b) of this section. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this section occurring within 30 days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under 16 years of age to violate this section.

(d) *Responsibility of business owners.* It shall be unlawful for any person operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under 16 years of age to loiter, loaf or idle in such place during the hours prohibited by this section. Whenever the owner or person in charge or control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this section shall find persons under 16 years of age loitering, loafing or idling in such place of business, he shall immediately order such person to leave, and if such person refuses to leave such place of business, the operator shall immediately notify the police department and inform the police department of the violation.

(e) *Authority of law enforcement officers.* Every law enforcement officer is authorized to detain any minor violating the provisions of this section until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall then report to the police department as soon as reasonably possible for the purpose of taking the custody of the minor, and shall sign a release for such minor. However, if no response is received from the parent, guardian or person having legal custody of the minor, the police shall take whatever action is deemed necessary in

the best interest of the minor.

(f) *First detention.* The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer of the village, as provided in subsection (e) of this section, such minor, parent, guardian or person having such legal custody shall be advised, personally, if known or by registered mail, as to the provisions of this section, and further advised that any violation of this section occurring after the first violation by the minor or any other minor under his care or custody shall result in a penalty being imposed as provided in subsection (g) of this section.

(g) *Penalties.*

(1) Any parent, guardian or person having legal custody of a child described in subsections (a)--(e) of this section, who has been warned in the manner provided in subsection (f) of this section, and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in section 1-27. After a second violation within a six-month period, if the defendant, in a prosecution under this section, proves that he is unable to comply with this section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Wis. Stats. ch. 48.

(2) Any minor under 16 years of age who shall violate this section, upon conviction, shall forfeit not less than \$1.00, nor more than \$25.00, together with the costs of prosecution.

(Code 1988, § 9-6-1)

Sec. 30-182. Possession of controlled substances.

It shall be unlawful for any person under the age of 18 years to possess a controlled substance contrary to the Uniform Controlled Substances Act, Wis. Stats. ch. 161.

(Code 1988, § 9-6-2)

Sec. 30-183. Petty theft.

It shall be unlawful for any person under the age of 18 years, with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

(Code 1988, § 9-6-3)

Sec. 30-184. Receiving stolen goods.

It shall be unlawful for a person under the age of 18 years to intentionally receive or conceal property he knows to be stolen.

(Code 1988, § 9-6-4)

Sec. 30-185. Jurisdiction over persons 14 through 16 years of age.

(a) *Statute adopted.* Wis. Stats. ch. 938 is adopted and made a part of this section by reference as if fully set forth in this section.

(b) *Complaints of violations.* Subject to the provisions and limitations of Wis. Stats. ch. 938, complaints alleging a violation of any provision of this Code against persons 14 through 16 years of age may be brought on behalf of the village, and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.

(c) *Incarceration.* The court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this section.

(d) *Additional prohibited acts.* In addition to any other provision of this Code, no person 14 through 16 years of age shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Wis. Stats. ch. 125.

(e) *Violations of subsection (d); penalties.* Any person 14 through 16 years of age who shall violate the provisions of subsection (d) of this section shall be subject to the same penalties as provided in section 1-27, exclusive of the provisions in such section relative to commitment in the county jail.
(Code 1988, § 9-6-5)

Sec. 30-186. Violations; citations; penalties.

(a) *Citation process.* For violations of sections 30-182--30-185, juveniles may be cited by the citation process, on a form approved by the village attorney, which, on the reverse side, shall contain the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy of the citation will be mailed to the parent or legal guardian.

(b) *Penalties.* Violations of sections 30-182--30-185 by a person under the age of 18 years shall be punishable according to Wis. Stats. ch. 938. Nothing in this section shall prevent a juvenile officer, in his discretion, from referring cases directly to the district attorney's office.
(Code 1988, § 9-6-6)

Chapters 31—33

RESERVED

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