

## TITLE 11

### Offenses and Nuisances

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## CHAPTER 1

### State Statutes Adopted

11-1-1	Offenses Against State Laws Subject to Forfeiture
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### SEC. 11-1-1 OFFENSES AGAINST 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 of Colfax. With the exception of Sec. 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code. The penalty for truancy and high school dropouts shall be governed by the provisions of Sec. 938.342, Wis. Stats., as adopted herein.

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## SEC. 11-1-2 PENALTIES; ATTEMPT; PARTIES TO ACTS.

- (a) **Penalty.** In addition to the general penalty provisions of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Title, 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 parent or parents of any unemancipated juvenile who violates Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.
- (b) **Attempt.**
- (1) Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the Village of Colfax may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
  - (2) An attempt to commit an act prohibited by the ordinances in Title 11 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he/she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he/she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- (c) **Parties to Acts Prohibited in Title 11.**
- (1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances, is a principle and may be charged with and convicted of the commission of said act although he/she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
  - (2) A person is concerned in the commission of an act prohibited by these ordinances if he/she:
    - a. Directly commits the act; or
    - b. Intentionally aids and abets the commission of it; or
    - c. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

## CHAPTER 2

### Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms, Explosives, and Other Missiles
11-2-2	Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited
11-2-3	Safe Use and Transportation of Firearms and Bows
11-2-4	Sale and Discharge of Fireworks Restricted
11-2-5	Obstructing Streets and Sidewalks Prohibited
11-2-6	Loitering Prohibited
11-2-7	Loud and Unnecessary Noise Prohibited
11-2-8	Disorderly Conduct
11-2-9	Unauthorized Presence on School Property
11-2-10	Failure to Obey Lawful Order; Resisting An Officer
11-2-11	Possession of Controlled Substances; Marijuana
11-2-12	Crossing A Police Line
11-2-13	Harassment
11-2-14	Open Cisterns, Wells, Basements or other Dangerous Excavations Prohibited
11-2-15	Gambling, Lotteries, Fraudulent Devices and Practices Prohibited

#### SEC. 11-2-1 REGULATION OF FIREARMS, EXPLOSIVES, AND OTHER MISSILES.

- (a) **Discharge of Firearms Regulated.** No person, except a law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun or bow and arrow of any description in his/her possession or under his/her control within the Village of Colfax, unless it is unloaded and lawfully enclosed in a proper carrying case, provided that this Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or guardian.
- (b) **Hunting Prohibited.** Hunting within the Village of Colfax is prohibited.
- (c) **Shooting Into Village Limits.** No person shall in the territory adjacent to the Village discharge any firearm in such manner that the discharge shall enter or fall within the Village of Colfax.
- (d) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Village Board, upon the recommendation of 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 Village Board.
- (f) **Throwing or Shooting of Stones, or Other Missiles Prohibited.**
  - (1) It shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot or other means within three hundred (300) feet of any inhabited dwelling or building or any public park, square or enclosure.

- (2) This Subsection shall not apply:
  - a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.
  - b. To a supervised archery range approved by the Village.
  - c. Within the interior of a single family dwelling.
- (g) **Requirements For Annual Archery Permit.**
  - (1) Archers under the age of eighteen (18) years old must be certified by a Hunter's Safety Course or other recognized safety training program to qualify for a permit and supervised by an adult permit holder when shooting.
  - (2) Annual archery permits allowing archery practice on private property may be obtained from the Chief of Police. The Chief of Police may attach conditions to such permits to assist in safeguarding public safety. There is no fee for such permits.
  - (3) All shooting will be directed towards an approved structure on the permit holder's property, and not shoot towards adjacent property unless there is a minimum of two hundred fifty (250) yards down-range, without structures.
  - (4) Contiguous property dwellers will be contacted and advised of the applicant's intention to obtain a permit for archery practice on your property.
- (h) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, 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 gun powder.

**SEC. 11-2-2 CARRYING CONCEALED WEAPONS PROHIBITED;  
CERTAIN WEAPONS PROHIBITED.**

- (a) **Concealed Weapons Prohibited.**
  - (1) Prohibition. No person shall, within the Village of Colfax, wear or in any manner carry under his/her 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) Dangerous Weapon Defined. "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) **Concealed Weapons in 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 so 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 doing so in the course of its regular business in accord 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, 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, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the Village.
- (d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**
  - (1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "suchai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the Village of Colfax.
  - (2) For the purpose of this Section, the following definitions shall apply:
    - a. "Numchuk" or "Nunchaku." An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
    - b. "Churkin." A round throwing knife consisting of several sharp points protruding from a rounded disc.
    - c. "Suchai." 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.
  - (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction or may be retained by the Police Department for public education and display purposes.
- (e) **Reckless Use of Weapons.**
  - (1) Acts Prohibited.
    - a. No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.
    - b. No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he/she is under the influence of an intoxicant.
    - c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.
  - (2) Reckless Conduct Defined. "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

## SEC. 11-2-3 SAFE USE AND TRANSPORTATION OF FIREARMS AND BOWS.

- (a) **Definitions.** In this Section:
  - (1) Aircraft has the meaning given under Sec. 114.002(3), Wis. Stats.
  - (2) 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.

- (3) Firearm means a weapon that acts by force of gunpowder.
- (4) Highway has the meaning given under Sec. 340.01(22), Wis. Stats.
- (5) Motorboat has the meaning given under Sec. 30.50(6), Wis. Stats.
- (6) Roadway has the meaning given under Sec. 340.01(54), Wis. Stats.
- (7) Unloaded means any of the following:
  - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
  - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
  - c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.
- (8) Vehicle has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.
- (b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**
  - (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - (4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
  - (5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-6.
- (c) **Exceptions.**
  - (1) Subsection (b) 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 fifty (50) feet of the center of a roadway:
    - a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
    - b. A member of the U.S. armed forces.
    - c. A member of the National Guard.
  - (2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., 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) do not apply to the holder of a permit under Sec. 29.09, wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.



## SEC. 11-2-4 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances. Lawful retail sales activities of fireworks permitted by state law are permitted without a Village permit. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

## SEC. 11-2-5 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

- (a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village of Colfax in such a manner as to:
  - (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- (c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
  - (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Colfax.
  - (3) **Obstruct.** 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 whatsoever on such sidewalk.
  - (4) **Sidewalk.** Any sidewalk owned or maintained by the Village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (d) **Free Speech.**
  - (1) This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

- (2) In addition, this Section shall not be applicable to parades, events, dances, etc. authorized by the Village Board or its designees.

**SEC. 11-2-6 LOITERING PROHIBITED.**

**(a) Public Property Loitering Prohibited.**

- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.
- (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
- (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

**(b) Private Property Loitering Prohibited.**

- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct there at.
- (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.
- (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

**(c) Loitering or Prowling Prohibited.**

- (1) No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her

- to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.
- (2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.
  - (3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.
  - (4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this Subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.
- (d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**
- (1) Underage Persons and Intoxicants. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
  - (2) Permitting Loitering Prohibited. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Colfax.
- (f) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the sworn police officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:

- (1) Public Place is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.
- (2) Known Prostitute or Panderer means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

#### SEC. 11-2-7 LOUD AND UNNECESSARY NOISE PROHIBITED.

- (a) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- (b) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
  - (1) Horns, 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 (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable 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 one 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 for any reason held up.
  - (2) Radios, Phonographs, Similar Devices. The using, operating 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 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, Amplifiers for Advertising. The using, operating or permitting to be played, used or operated of 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 attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

- (4) Animals, 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 request of proper Village authorities.
  - (6) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffle or other device which will effectively prevent loud or explosive noises therefrom.
  - (7) Construction or Repair of Buildings. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, 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 Chief of Police 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 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. to 7:00 a.m.
  - (8) Schools, Courts, Churches, Medical Facility. 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 medical facility, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the medical facility provided that conspicuous signs are displayed in those streets indicating a school, medical facility or court street. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
  - (9) Exceptions. The provisions of this Section shall not apply to:
    - a. Any vehicle of the Village while engaged in necessary public business.
    - b. Excavations or repairs of streets or other public construction by or on behalf of the Village, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
    - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
- (c) **Permits for Amplifying Devices.**
- (1) Permit Required. The use of loudspeakers or amplifying devices on the streets or in the parks of the Village of Colfax is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police.
  - (2) Grounds or Reasons for Denial or Allowance. The Chief of Police shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.

- (3) Time Restrictions. The Chief of Police shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

**SEC. 11-2-8 DISORDERLY CONDUCT.**

- (a) **Disorderly Conduct Prohibited.** No person within the Village of Colfax 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 tends to annoy or disturb any other person;
  - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation;
  - (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
  - (4) Indecently expose his or her person;
  - (5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.
- (b) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Village, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.

**SEC. 11-2-9 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.**

- (a) **Unauthorized Presence.**
- (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the Village or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.
  - (2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.
  - (3) "Authorized person" shall include:
    - a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;
    - b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
    - c. Any person utilizing a designated area for attending an athletic or other organized school event.

- (b) **Disorderly Conduct on Public School Property.**
  - (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
  - (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
  - (3) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
  - (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a Village summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.
- (c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Colfax or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.
- (d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
  - (1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Colfax.

**SEC. 11-2-10 FAILURE TO OBEY LAWFUL ORDER; RESISTING  
AN OFFICER.**

- (a) **Lawful Orders.** 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 or her duties.
- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any police officer or member of the Police Department or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any

other person to resist or interfere with such officer or person in the discharge of his/her duty, or to in any way interfere with or hinder or prevent him/her from discharging his duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his/her official capacity in carrying out his duties.

## SEC. 11-2-11 POSSESSION OF CONTROLLED SUBSTANCES; MARIJUANA.

- (a) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I and II which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his/her professional practice, or except as otherwise authorized by this Code of Ordinances.
- (b) **Possession of Marijuana.**
  - (1) No person shall possess twenty-five (25) grams or less of marijuana, as defined in Section 961.01(14), Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.
  - (2) For purposes of this Section, "practitioner" means:
    - a. A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.
    - b. A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.
  - (3) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.
- (c) **Possession of T.H.C. (Tetrahydrocannabinol) Prohibited.** No person within the Village of Colfax, shall have in his possession or under his control, or violate any provision of Sec. 161.14(4)(k) and Sec. 161.14(2r)(a), Wis. Stats.

State Law Reference: Section 66.051(4), Wis. Stats.

## SEC. 11-2-12 CROSSING A POLICE LINE.

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.



**SEC. 11-2-13 HARASSMENT.**

- (a) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:
  - (1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.
  - (2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.
- (b) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:
  - (1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
  - (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
  - (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
  - (4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
  - (5) Knowingly permits any telephone under his control to be used for any purpose prohibited by this Section;
  - (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

**SEC. 11-2-14 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.**

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

**SEC. 11-2-15 GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.**

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village, except as provided by state law. Any police officer of the Village may seize anything devised solely for gambling or found in actual use for gambling within the Village and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

## CHAPTER 3

### Offenses Against Property

11-3-1	Destruction of Property Prohibited
11-3-2	Littering Prohibited
11-3-3	Abandoned Refrigerators Prohibited
11-3-4	Theft of Library Material
11-3-5	Cemetery Regulations
11-3-6	Damage to Public Property
11-3-7	Retail Theft
11-3-8	Issuance of Worthless Checks
11-3-9	Trespass to A Dwelling or Land
11-3-10	Regulation of Smoking
11-3-11	Theft Prohibited
11-3-12	Fraud on Residential Landlords Prohibited

#### SEC. 11-3-1 DESTRUCTION OF PROPERTY PROHIBITED.

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the Village of Colfax, the School District, or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the Village without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.
- (b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., 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; such liability shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00).
- (c) **Penalty Provisions.**
  - (1) Any person eighteen (18) years of age or over who violates this Section is subject to a penalty as provided in Section 1-1-6, restitution to the injured party, and the costs of prosecution.
  - (2) Any person twelve (12) years of age through seventeen (17) years of age shall be subject to a forfeiture not to exceed Twenty-five Dollars (\$25.00) and any other applicable penalty provided by Sec. 48.344, Wis. Stats., as that Section may exist, be amended or changed.
- (d) **Victim Remedies.** Any person or entity injured by a violation of this Section by a minor child shall be advised of the rights and remedies available under Sec. 895.035, Wis. Stats.

#### SEC. 11-3-2 LITTERING PROHIBITED.

- (a) **Littering 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 of Colfax, or upon property within the Village owned by the Colfax

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 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) Litter to be cleaned up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same 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) Litter picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the Village shall arrange to have the same picked up by Village crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association 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 same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.

(c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Village Board or Director of Public Works to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.

(d) **Handbills.**

- (1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the Village except by 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 Prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

**SEC. 11-3-3 ABANDONED REFRIGERATORS PROHIBITED.**

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box,

refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

#### SEC. 11-3-4 THEFT OF LIBRARY MATERIAL.

- (a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:
- (1) **Archives.** A place in which public or institutional records are systematically preserved.
  - (2) **Library.** Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the Village of Colfax and school libraries.
  - (3) **Library Material.** Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.
- (b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and Village Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.
- (c) **Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.
- (d) **Detention Based on Probable Cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this Section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- (e) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture or other article or property belonging to or in charge of the library. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1-1-6.

- (f) **Return Demanded.** No person shall fail, on demand, to return any book periodical, pamphlet, picture or other articles or property belonging to or in charge of the Public Library according to the rules or regulations duly made and adopted by the Library Board and no person shall remove from the library any book, periodical, pamphlet, picture or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this Subsection shall be subject to the penalties as set forth in Section 1-1-6.

State Law Reference: Section 943.61, Wis. Stats.

## SEC. 11-3-5 CEMETERY REGULATIONS.

- (a) **Purpose and Definition.** In order to protect cemetery areas within the Village from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the Village of Colfax.
- (b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.
- (c) **Specific Regulations.**
- (1) Disturbing Cemetery Property. No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.
  - (2) Protection of Cemetery Property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. No picnic, parties, or similar gatherings are permitted.
  - (3) Motor Vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be

- unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.
- (4) Speed Limit. No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.
  - (5) Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
  - (6) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.
  - (7) Pets. Pets, including animals of any species, and horses are prohibited in any cemetery.
  - (8) Sound Devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
  - (9) Authorized Notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
  - (10) Loitering Prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.
  - (11) Alcoholic Beverages Prohibited. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Village unless the property is specifically named as being part of a licensed premises.
  - (12) Play Vehicles Prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
  - (13) Presence After Hours Prohibited. No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

#### SEC. 11-3-6 DAMAGE TO PUBLIC PROPERTY.

- (a) **Damaging Public Property.** 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 in the Village of Colfax.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the Village.
- (c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of Village authorities, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution

system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

#### **SEC. 11-3-7 RETAIL THEFT.**

- (a) Whoever intentionally alters 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 intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection (d).
- (b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments 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 so 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/her presence may detain such person in a reasonable manner for a reasonable length of time to deliver him/her to a peace officer, or to his/her parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he/she shall not be interrogated or searched against his/her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Subsection entitles the merchant or his/her employee affecting the detention to the same defense in any action as is available to a law enforcement officer making an arrest in the line of duty.
- (d) If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit not more than Two Hundred Dollars (\$200.00). If the value of the merchandise exceeds One Hundred Dollars (\$100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

State Law Reference: Section 943.50, Wis. Stats.

#### **SEC. 11-3-8 ISSUANCE OF WORTHLESS CHECKS.**

- (a) Whoever issues any check or other order for the payment of money less than One Thousand Dollars (\$1,000.00) which, at the time of issuance, he or she 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 or she 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; or
  - (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 within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; 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 within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.

- (c) This Section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.

#### **SEC. 11-3-9 TRESPASS TO A DWELLING OR LAND.**

- (a) **Trespass to Land.** No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- (b) **Trespass to Dwelling.** No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

#### **SEC. 11-3-10 REGULATION OF SMOKING.**

- (a) **State Statute Adopted.** The provisions of Chapter 101.123, Wis. Stats., relating to the Regulation of Smoking and Clean Indoor Air, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Section as is fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Section. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Section.
- (b) **Smoking Prohibited Within or Upon All Buildings and Equipment Owned, Leased or Rented by the Village.** In recognition of a need to protect the health and comfort of the public and Village employees from the detrimental effects of smoking, pursuant to the authority granted to the Village by Sec. 101.123(2)(c), Wis. Stats., smoking as defined by Section 101.123(1)(h), Wis. Stats., is hereby prohibited by any person within or upon all buildings and enclosed equipment owned, leased or rented by the Village of Colfax, except in designated areas.

#### **SEC. 11-3-11 THEFT PROHIBITED.**

- (a) **Acts.** Whoever does any of the following may be penalized as provided in Section 1-1-6 of this Code of Ordinances:
  - (1) Intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another without his/her consent and with intent to deprive the owner permanently of possession of such property.
  - (2) By virtue of his/her office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his/her authority, and with intent to convert to his/her own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his/her possession or custody by virtue of his/her office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his/her own use within the meaning of this Subsection.



- (3) Having a legal interest in movable property, intentionally and without consent, take such property out of the possession of the pledgee or such other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- (4) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- (5) Intentionally fails to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement, within ten (10) days after the lease or rental agreement has expired.
- (b) **Definitions.** The following definitions shall be applicable in this Section:
  - (1) "Property" means all forms of tangible property, whether real or personal, without limitation including electricity, gas and documents which represent or embody a choice in action or other intangible rights.
  - (2) "Movable Property" is property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights, and things growing on or affixed to or found in land.
  - (3) "Value" means the market value at the time of the theft or the cost to the victim of replacing the property within the reasonable time after the theft, whichever is less, if the property stolen is a document evidencing a choice in action or other intangible right; value means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.
  - (4) "Property of Another" includes property in which the actor is a co-owner and property of a partnership of which the actor is a member unless the actor and the victim are husband and wife.

#### SEC. 11-3-12 FRAUD ON RESIDENTIAL LANDLORDS PROHIBITED.

- (a) **Prohibited Acts.** Any person who, with intent to defraud, does any of the following shall be guilty of violating this Section:
  - (1) Intentionally absconds without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premise by the tenant, and the non-payment of said rent continues for a period of five (5) days after vacation of the premise; or
  - (2) Issues any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed, or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails, within five (5) days of a written demand by the landlord or agent, to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.

- (b) **Applicability.** This Section shall apply to rental agreements between residential landlords and tenants only. The words and terms used in this Section shall be defined and construed in conformity with the provisions of Chapter AG 134, Wis. Adm. Code, Chapter 704, Wis. Stats., and Section 990.001(1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not, in itself, act as a bar to prosecution under this Section.
- (c) **Procedure.** An officer may issue a citation only when the complainant provides the following:
  - (1) The name and current address of the tenant, a copy of the subject lease agreement, or sworn testimony of the terms of the subject oral lease.
  - (2) The amount of rent due, the date it was due, the date the tenant actually vacated the premise, and testimony that the rent remained unpaid for not less than five (5) days after vacating and that the tenant did not notify or attempt to notify the complainant of the tenant's new address, or that the tenant knowingly gave the complainant a false address.
  - (3) As to an unredeemable payment, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof that the tenant received the written demand, and testimony that at least five (5) days have elapsed since the demand was received and no payment has been made.

State Law Reference: Chapter 704 and Section 990.001(1), Wis. Stats.; Chapter AG 134, Wis. Adm. Code.

## CHAPTER 4

### Offenses Involving Alcoholic Beverages

- 11-4-1 Outside Consumption
- 11-4-2 Sale to Underage or Intoxicated Persons Restricted
- 11-4-3 Underage Persons' Presence in Places of Sale; Penalty
- 11-4-4 Underage Persons; Prohibitions; Penalties
- 11-4-5 Defense of Sellers
- 11-4-6 Persons Who Have Attained the Legal Drinking Age;  
False or Altered Identification Cards
- 11-4-7 Possession of Alcohol Beverages on School Grounds
- 11-4-8 Adult Permitting or Encouraging Underage Violation
- 11-4-9 Solicitation of Drinks Prohibited

#### SEC. 11-4-1 OUTSIDE CONSUMPTION.

(a) **Alcoholic Beverages in Public Areas.**

- (1) Regulations. 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, park, municipal building, library, cemetery or drives or other public area within the following described territory in the Village of Colfax or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his/her possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, park, municipal building, library, public alley or public parking lot within the Village of Colfax.
- (2) Private Property Held Out For Public Use. It shall be unlawful for any person to consume any alcohol beverages 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.
- (3) Exceptions.
  - a. The provisions of this Section may be waived by the Village Board for duly authorized events.
  - b. Any organization which has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area and event pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.
  - c. The provisions of this Section regarding open consumption of fermented malt beverages or intoxicating liquor shall not apply within two hundred (200) feet of a parade route which the Village of Colfax has authorized from one (1) hour prior to the scheduled start of said parade until one (1) hour after the end of said parade; except that the foregoing exemption does not extend to any vehicle or unit of the parade, however propelled, nor to any parade participant for that period of time during which the vehicle, unit of the parade or person is participating within the assembly and disembarkment points of the parade.

(b) **Definitions.**

- (1) As used in this Section, the term "alcoholic beverage" shall include 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 (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
- (2) As used in this Section, the term "public area" shall be construed to mean any location within the Village which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
- (3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7-2-16.

**SEC. 11-4-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.**

(a) **Sales of Alcohol Beverages to Underage Persons.**

- (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (4) No adult may intentionally encourage or contribute to a violation of Subsection (a)(1) or (b).

(b) **Penalties.** For purposes of determining previous violations, the thirty (30) month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one (1) violation occurs at the same time, all those violations shall be counted as one (1) violation. A person who commits a violation of Subsection (a) above may be:

- (1) Required to forfeit not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within thirty (30) months of the violation; or
- (2) Fined not more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within thirty (30) months of the violation.
- (3) Fined not more than One Thousand Dollars (\$1,000.00) if the person has committed two (2) previous violations within thirty (30) months of the violation.
- (4) Fined not more than Ten Thousand Dollars (\$10,000.00) if the person has committed three (3) or more previous violations within thirty (30) months of the violation.

- (5) In addition to the forfeitures provided in Subsections (b)(1)-(4) above, a court shall suspend any license issued under this Chapter to a person violating this Subsection for:
  - a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one (1) previous violation;
  - b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
  - c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.
- (c) **Exception.** A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to Subsection (b)(5) but is not subject to Subsection (b)(1)-(4) or Sec. 125.11, Wis. Stats.
- (d) **Sale of Alcohol Beverages to Intoxicated Persons.**
  - (1) **Restrictions.**
    - a. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
    - b. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (e) **Penalties.** Any person who violates Subsection (d)(1) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

State Law Reference: Section 125.07, Wis. Stats.

**SEC. 11-4-3 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE;  
PENALTY.**

- (a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her 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" or Class "A" premises for the purpose of purchasing other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

- (3) Hotels, drug stores, grocery stores, bowling alleys, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality, or centers for the visual. or performing arts.
- (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 Chapters 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
- (5) Ski chalets, golf courses and golf clubhouses, racetracks licensed under Chapter 562, Wis. Stats., curling clubs, private soccer clubs 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 alcohol beverages, but the presumption may be rebutted by competent evidence.
- (7) Premises operating under both a "Class C" license and a restaurant permit.
- (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol 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 Class "B" or "Class B" premises under this Subsection only if the Village adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the Village Police Department 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 the authorization, the Village Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the Village. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.)
- (9) A person who is at least eighteen (18) years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
- (10) An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the Police Department, in advance, of the times underage persons will be allowed on the premises under this Subsection.

- (11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.
- (12) An underage person who enters and remains on premises for which a temporary Class "B" license is issued under Sec. 125.26, Wis. Stats., if the licensee is authorized by the official or body of the Village that issued the license to permit underage persons to be on the premises under Sec. 125.26(6), Wis. Stats., and if the licensee permits underage persons to be on the premises.
- (b) **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) above is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

#### SEC. 11-4-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

- (a) **Prohibitions.** Any underage person who does any of the following is guilty of a violation:
  - (1) Procures or attempts to procure alcohol beverages from a licensee or permittee.
  - (2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes alcohol beverages on licensed premises.
  - (3) Enters, knowingly attempts to enter or is on licensed premises in violation of Section 11-4-3(a).
  - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) **Adult to Accompany.** Except as provided in Subsection (c) below, any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.
- (c) **Exceptions.** An underage person may possess alcohol beverages in the course of employment during his or her working hours if employed by any of the following:
  - (1) A brewer.
  - (2) A fermented malt beverages wholesaler.
  - (3) A permittee other than a Class "B" or "Class B" permittee.
  - (4) A facility for the production of alcohol fuel.
  - (5) A retail licensee or permittee under the conditions specified in Sec. 125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.
  - (6) A campus, if the underage person is at least eighteen (18) years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- (d) **Penalties for Subsection (a) Violations.** Any person violating Subsection (a) is subject to the following penalties:
  - (1) For a first (1st) violation, a forfeiture of not more than Two Hundred Fifty Dollars (\$250.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.

- (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Three Hundred Dollars (\$300.00) not more than Five Hundred Dollars (\$500.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)(1), Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
- (3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than Seven Hundred Fifty Dollars (\$750.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g) or any combination of these penalties.
- (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Seven Hundred Dollars (\$700.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work or any combination of these penalties.
- (e) **Penalties for Subsection (b) Violations.** Any person violating Subsection (b) above is subject to the following penalties:
  - (1) For a first (1st) violation, a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
  - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
  - (3) For a violation committed within twelve (12) months of two (2) previous violations, either a forfeiture of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
  - (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or other community service work under Subsection (g), or any combination of these penalties.
- (f) **Multiple Violations From an Incident.** For purposes of Subsections (a) or (b) above, all violations arising out of the same incident or occurrence shall be counted as a single violation.
- (g) **Work Programs.**
  - (1) A supervised work program ordered under Subsections (d) or (e) above shall be administered by the county department under Sec. 46.215 or 46.22, Wis. Stats., or by a community agency approved by the court. The court shall set standards for the supervised work program within the budgetary limits established by the county board of supervisors. The supervised work



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. Community service work ordered under Subsection (d) or (e), other than community service work performed under a supervised work program, shall be administered by a public agency or nonprofit charitable organization approved by the court. The court may use any available resources, including any community service work program, in ordering the child to perform community service work under Subsection (d) or (e).

- (2) The supervised work program or other community service work 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 a member of the staff of the county department, community agency, public agency or nonprofit charitable organization or other qualified person. The supervised work program or other community service work 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.
- (h) **Disclosure of License Revocation Information.** When a court revokes or suspends a person's operating privilege under Subsections (d) or (e), the Wisconsin 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.
- (i) **Applicability of Statutory Proceedings.** A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 938.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 938.344(3), Wis. Stats.
- (j) **Alcohol Abuse Programs.**
  - (1) In this Subsection, "defendant" means a person found guilty of violating Subsections (a) or (b) who is eighteen (18), nineteen (19), or twenty (20) years of age.
  - (2) After ordering a penalty under Subsections (d) or (e), the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this Subsection shall require the defendant to do any of the following:
    - a. Submit to an alcohol abuse assessment that conforms to the criteria specified under Sec. 938.547(4), Wis. Stats., and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.
    - b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under Subsection (j)(2)a recommends treatment.
    - c. Participate in a court-approved alcohol abuse education program.
  - (3) If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under

Subsection (j)(2)a and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.

- (4) If the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court-approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the defendant that the defendant has complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under Subsection (d) or (e), the court may order the secretary of transportation to reinstate the operating privilege of the defendant if he or she completes the alcohol abuse treatment program or court-approved alcohol abuse education program.
- (5) If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under Subsection (d) or (e) should be imposed.

#### SEC. 11-4-5 DEFENSE OF SELLERS.

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated Sections 11-4-2(a) or 11-4-3(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages maybe considered, including any circumstances listed below. In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
  - (1) That the purchaser falsely represented that he or she had attained the legal drinking age.
  - (2) That 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) That 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.
  - (4) That the underage person supported the representation under Subsection (a)(1) above with documentation that he/she had attained the legal drinking age.
- (b) **Book Kept by Licensees and Permittees.**
  - (1) Every retail alcohol beverage licensee or permittee may keep a book for the purposes of Subsection (a) above. The licensee or permittee or his or her employee may require any of the following persons to sign the book:
    - a. A person who has shown documentary proof that he or she has attained the legal drinking age if the person's age is in question.

- b. A person who alleges that he or she is the underage person's parent, guardian or spouse and that he or she has attained the legal drinking age, if the licensee or permittee or his or her employee suspects that he or she is not the underage person's parent, guardian or spouse or that he or she has not attained the legal drinking age.
- (2) The book may show the date of the purchase of the alcohol beverage, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchase and the purchaser's signature.

State Law Reference: Section 125.07(6) and (7), Wis. Stats.

**SEC. 11-4-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE;  
FALSE OR ALTERED IDENTIFICATION CARDS.**

- (a) (1) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.08 or Sec. 343.50, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).
- (2) 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 One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00).
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-4(d) or (e):
  - (1) Intentionally carries an official identification card not legally issued to him or her, 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.

State Law Reference: Sec. 125.09(3), Wis. Stats.

**SEC. 11-4-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS  
PROHIBITED.**

- (a) In this Subsection:
  - (1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
  - (2) "School" means a public, parochial or private school which provides an educational program for one (1) 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.
  - (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

- (4) "School premises" means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol 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) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that Sec. 938.344, Wis. Stats., and Section 11-4-4(d) and (e) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 11-6-5.

#### **SEC. 11-4-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.**

- (a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 11-4-4(a) or (b).
- (c) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00).

State Law Reference: Sec. 125.07(1)(a)3 and 4, Wis. Stats.

#### **SEC. 11-4-9 SOLICITATION OF DRINKS PROHIBITED.**

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Village who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Sec. 125.02(1), Wis. Stats., 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.

## CHAPTER 5

### Offenses by Juveniles

11-5-1	Curfew
11-5-2	Possession of Controlled Substances by Juveniles
11-5-3	Petty Theft by Juveniles
11-5-4	Receiving Stolen Goods
11-5-5	Village Jurisdiction Over Juveniles
11-5-6	Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited
11-5-7	Truancy
11-5-8	Unlawful Sheltering of Minors
11-5-9	Purchase or Possession of Tobacco Products
11-5-10	Smoking By Minors on Public Property
11-5-11	Criminal Gang Activity Prohibited
11-5-12	Enforcement and Penalties

#### SEC. 11-5-1 CURFEW.

- (a) **Curfew Established.** It shall be unlawful for any person under age eighteen (18) to loiter, idle, wander, stroll, play, be on foot, on bicycle or in any type of vehicle on any public street, highway, road, alley, park, playground, school ground, place of amusement and entertainment, cemetery, public building, public places, vacant lots or other unsupervised places between the hours of 10:30 p.m. and 6:00 a.m. on nights preceding school days, and between the hours of 11:30 p.m. and 6:00 a.m. on nights not preceding school days. It shall be unlawful for any person under age thirteen (13) to loiter, idle, wander, stroll, play, be on foot, on bicycle or in any type of vehicle on any public street, highway, road, alley, park, playground, school ground, place of amusement and entertainment, cemetery, public building, public places, vacant lots or other unsupervised places between the hours of 9:30 p.m. and 6:00 a.m.
- (b) **Exceptions.**
- (1) This Section shall not apply to a juvenile:
    - a. Who is performing an errand as directed by his/her parent, legal guardian or person having lawful custody.
    - b. Who is on his/her 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, but not later than sixty (60) minutes after the ending of such function.
  - (2) These exceptions shall not, however, permit a juvenile to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- (c) **Parental Responsibility.** It shall be unlawful for any parent, legal guardian or other person having the lawful care, custody and control of any person under age eighteen (18) to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, legal guardian

or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (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, legal guardian or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any juvenile under age seventeen (17) to violate this Section.

- (d) **Detaining a Juvenile.** Pursuant to Chapter 938, Wis. Stats., law enforcement officers are hereby authorized to detain any juvenile violating the above provisions and other provisions in this Chapter until such time as the parent, legal guardian or person having legal custody of the juvenile shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the juvenile and shall sign a release for him or her, or such juvenile may be taken directly from the scene of his/her apprehension to his/her home. If such juvenile's parents or relative living nearby cannot be contacted to take custody of such juvenile and it is determined by the apprehending officer that the juvenile's physical or mental condition is such as would require immediate attention, the police officer may make such necessary arrangements as may be necessary under the circumstances for the juvenile's welfare.

- (e) **Warning and Penalty.**

- (1) **Warning.** The first time a parent, guardian, or person having legal custody of a juvenile who is taken into custody by a law enforcement officer as provided in Subsection (d) above, such parent, legal guardian, or person having such legal custody shall be advised as to the provisions of this Section and further advised that any violation of this Section occurring thereafter by this juvenile or any other juvenile under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
- (2) **Penalty.** Any parent, legal guardian, or person having legal custody of a juvenile described in Subsection (a) above who has been warned in the manner provided in Subsection (d)(1) herein and who thereafter violates this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the juvenile, the action shall be dismissed and the juvenile shall be referred to the court assigned to exercise jurisdiction under Chapter 938, Wis. Stats. Any juvenile under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the costs of prosecution.

## SEC. 11-5-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.

It shall be unlawful for any juvenile to possess a controlled substance contrary to the Uniform Controlled Substances Act, Ch. 961, Wis. Stats.

## SEC. 11-5-3 PETTY THEFT BY JUVENILES.

It shall be unlawful for any juvenile 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.

**SEC. 11-5-4 RECEIVING STOLEN GOODS.**

It shall be unlawful for a person under the age of seventeen (17) to intentionally receive or conceal property he/she knows to be stolen.

**SEC. 11-5-5 VILLAGE JURISDICTION OVER JUVENILES.**

- (a) **Adoption of State Statutes.** Secs. 938.02, and 938.17(2), Wis. Stats., are hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **Definition of Adult and Juvenile.**
  - (1) "Adult" means a person who is eighteen (18) years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any civil law or municipal ordinance, "adult" means a person who has attained seventeen (17) years of age.
  - (2) "Juvenile" means a person who is less than eighteen (18) years of age, except that for purposes of prosecuting a person who is alleged to have violated a civil law or municipal ordinance, "juvenile" does not include a person who has attained seventeen (17) years of age.
- (c) **Provisions of Ordinance Applicable to Juveniles.** Subject to the provisions and limitations of Sec. 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against juveniles may be brought on behalf of the Village of Colfax and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (d) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (e) **Additional Prohibited Acts.** In addition to any other provision of the Village of Colfax Code of Ordinances, no juvenile 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 Ch. 125, Wis. Stats.
- (f) **Penalty for Violations of Subsection (d).** Any juveniles who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 of this Code of Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 11-4-7.

**SEC. 11-5-6 POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA BY A MINOR PROHIBITED.**

- (a) **Definition.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance, as defined in Chapter 961, Wis. Stats., in violation of this Section. It includes but is not limited to:

- (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
  - (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
  - (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
  - (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
  - (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
  - (9) Capsules, balloons, envelopes, or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
  - (11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - (12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
    - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
    - b. Water pipes;
    - c. Carburetion tubes and devices;
    - d. Smoking and carburetion masks;
    - e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
    - f. Miniature cocaine spoons and cocaine vials;
    - g. Chamber pipes;
    - h. Carburetor pipes;
    - i. Electric pipes;
    - j. Air-driven pipes;
    - k. Chillums;
    - l. Bongs;
    - m. Ice pipes or chillers.
- (b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:



- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - (3) The proximity of the object in time and space to a direct violation of this Section.
  - (4) The proximity of the object to controlled substances.
  - (5) The existence of any residue of controlled substance on the object.
  - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  - (7) Oral or written instructions provided with the object concerning its use.
  - (8) Descriptive materials accompanying the object which explain or depict its use.
  - (9) National and local advertising concerning its use.
  - (10) The manner in which the object is displayed for sale.
  - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  - (12) The existence and scope of legitimate uses for the object in the community;
  - (13) Expert testimony concerning its use.
- (c) **Prohibited Uses.**
- (1) Possession of Drug Paraphernalia. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.
  - (2) Manufacture or Delivery of Drug Paraphernalia. No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.
  - (3) Delivery of Drug Paraphernalia by a Minor to Minor. Any person who is under eighteen (18) years of age, who violates Subsection (c)(2) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
  - (4) Exemption. This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall upon conviction, be subject to disposition under Sec. 938.344(2e), Wis. Stats.

**SEC. 11-5-7 TRUANCY.**

- (a) **Definitions.** For the purpose of this Section, the following definitions shall be applicable:
- (1) Acceptable Excuse. The meaning as defined in Sections 118.15 and 118.16(4), Wis. Stats.
  - (2) Act of Commission or Omission. Anything that contributes to the truancy of a juvenile, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act would be to cause the child to be truant.
  - (3) Habitual Truant. A pupil who is absent from school without an acceptable excuse for either of the following:
    - a. Part or all of five (5) or more days out of ten (10) consecutive days in which school is held during a school semester.
    - b. Part or all of ten (10) or more days in which school is held during a school semester.
  - (4) Truancy. Any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the absent pupil. Intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats., shall also be considering truancy.
- (b) **Prohibition Against Habitual Truant.** Any person attending school in the Village between the ages of six (6) and eighteen (18) years, subject to the exceptions found under Sec. 118.15, Wis. Stats., is prohibited from becoming a habitual truant as the term is defined in this Section. Any police officer in this Village is authorized to issue a citation to any such person who is determined to be a habitual truant under the terms of this Section.
- (c) **Preconditions to Issuance of Citation.** Prior to the issuance of any citation, the district school Attendance Officer shall provide evidence to the Police Department that appropriate school personnel in the school in which the juvenile is enrolled has within the school year during which the truancy occurred:
- (1) Met with or attempted to meet with the juvenile's parent or legal guardian to discuss the juvenile's truancy.
  - (2) Provided an opportunity for educational counseling to the juvenile and considered curriculum modifications.
  - (3) Evaluated the juvenile to determine whether learning problems are the cause of the truancy and, if so, taken steps to overcome the learning problems.
  - (4) Conducted an evaluation to determine whether social problems are the cause of the juvenile's truancy and, if so, taken appropriate action or made appropriate referrals.
- (d) **Form of Citation.** Any citation issued shall be returnable in Court in the same manner as all other ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation and no forfeiture amount is to be written on the face of the citation.
- (e) **Disposition.** Upon a finding the juvenile is habitually truant, the following dispositions are available to the Court:

- (1) Suspension of Operating Privileges. Suspend the juvenile's operating privileges as defined in Sec. 340.02(40), Wis. Stats., for not less than thirty (30) days nor more than ninety (90) days. The judge shall immediately take possession of the suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice setting forth the reason for and duration of the suspension.
  - (2) Counseling, Service or Work Program. Order the juvenile to participate in counseling, community service or a supervised work program under Sec. 48.34(9), Wis. Stats.
  - (3) In-House Restraint. Order the juvenile to remain at home except for the hours in which the juvenile is attending religious worship or a school program including travel time required to get to and from the school program or place of worship. The order may permit a juvenile to leave home if the juvenile is accompanied by a parent or legal guardian.
  - (4) Educational Programs. Order the juvenile to attend an educational program as set forth in Sec. 48.34(12), Wis. Stats.
  - (5) Revocation of Work Permits. Order the Department of Industry, Labor and Human Relations (DILHR) to revoke a work permit to the juvenile.
  - (6) Teen Court Program. Order the juvenile to be placed in a teen court program if all of the following conditions apply:
    - a. The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
    - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, legal guardian or legal custodian present;
    - c. The juvenile has not successfully completed participation in a teen court program during the two (2) years before the date of the alleged violation.
  - (7) Parental Counseling. Order the parent, legal guardian or legal custodian of a habitually truant juvenile to participate in counseling at his or her own expense.
- (f) **Required School Attendance.**
- (1) Violations. Any person having under his/her control a juvenile who is between the ages of six (6) and eighteen (18), subject to the exceptions found in Sec. 118.15, Wis. Stats., shall cause the juvenile to attend school regularly during the full period and hours that the public or private school in which the juvenile shall be enrolled is in session until the end of the school term, quarter, or semester of the school year in which the juvenile becomes eighteen (18) years of age.
  - (2) Exceptions.
    - a. A person will not be found in violation of this Subsection if that person can prove that he/she is unable to comply with the provisions of this Section because of the disobedience of the juvenile. The juvenile shall be referred to the Court assigned to exercise jurisdiction under Chapter 938, Wis. Stats.
    - b. A person will not be found in violation of this Subsection if he/she has a juvenile under his/her control and the child has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.

- (3) Proof Required for Exacting a Penalty. Before a person may be found guilty of violating this Section, the school attendance officer must present evidence to the Court that the activities under Sec. 118.16(5), Wis. Stats., have been completed by the school system. If that evidence has been presented to the Court and if the Court finds a person guilty of violating this Section, a forfeiture may be assessed as hereinafter provided.
- (g) **Contributing to Truancy.**
  - (1) Except as provided in Subsection (g)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (g)(4), of a juvenile shall be subject to a forfeiture pursuant to Section 1-1-6.
  - (2) Subsection (1) above does not apply to a person who has under his or her control a juvenile who has been sanctioned under Sec. 49.26(1)(h), Wis. Stats.
  - (3) An act or omission contributes to the truancy of a child, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the juvenile to be a truant.
  - (4) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats.
- (h) **Parent or Legal Guardian Liability for Truancy.**
  - (1) Unless the juvenile is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a juvenile who is between the ages of six (6) and eighteen (18) years shall cause the juvenile to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the juvenile should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the juvenile becomes eighteen (18) years of age.
  - (2) a. A person found to have violated Subsection (h)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1-1-6.
  - b. Subsection (h)(2)a above does not apply to a person who has under his or her control a juvenile who has been sanctioned under Sec. 49.26(1)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection (h)(1) because of the disobedience of the juvenile.

## SEC. 11-5-8 UNLAWFUL SHELTERING OF MINORS.

- (a) No person shall intentionally shelter or conceal a minor child who:
  - (1) Is a "runaway child", meaning a child who has run away from his or her parent, legal guardian or legal or physical custodian; or
  - (2) Is a child who may be taken into custody pursuant to Sec. 48.19, Wis. Stats.
- (b) Subsection (a) applies when the following conditions are present:
  - (1) The person knows or should have known that the child is a child described in either Subsection (a)(1) or (a)(2); and

AN ORDINANCE REGARDING PURCHASE OR POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS

THE VILLAGE BOARD OF THE VILLAGE OF COLFAX, WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION 1. Section 11-5-9 of the Code of Ordinances of the Village of Colfax, Wisconsin, is hereby repealed and recreated as follows:

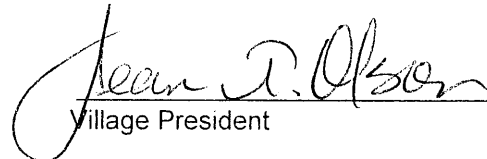
**SEC. 11-5-9 PURCHASE OR POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS.**

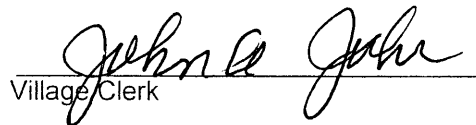
No person in the Village shall violate any provision of Sec. 254.92, Wis. Stats.

SECTION 2. This ordinance shall take effect upon passage and publication as required by law.

Adopted: August 11, 2008

Published August 20, 2008

  
Village President

  
Village Clerk

- (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection (a)(1) or (a)(2).
- (c) Subsection (a) does not apply to any of the following:
  - (1) A person operating a runaway home in compliance with Sec. 48.227, Wis. Stats.; or
  - (2) A person who shelters or conceals a child at the request or with the consent of the child's parent, legal guardian or legal or physical custodian except if the sheltering or concealment violates Sec. 946.71 or 946.715. Wis. Stats.; or
  - (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Ch. 48 or 938, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified with all information requested.

#### SEC. 11-5-9 PURCHASE OR POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS.

No person in the Village shall violate any provision of Sec. 254.92, Wis. Stats.

#### SEC. 11-5-10 SMOKING BY MINORS ON PUBLIC PROPERTY.

No person under the age of eighteen (18) years shall carry or possess a lighted cigar, cigarette, pipe, or any other lighted smoking equipment or tobacco product restricted by state law on public property within five hundred (500) feet of a school grounds within the Village of Colfax between the hours of 7:00 a.m. and 5:00 p.m.

#### SEC. 11-5-11 CRIMINAL GANG ACTIVITY PROHIBITED.

- (a) **Authority.** This Section is adopted pursuant to the authority granted by Sec. 66.051 and Chapter 948, Wis. Stats.
- (b) **Definitions.** For purposes of this Section, the following terms are defined:
  - (1) "Criminal Gang" means an ongoing organization, association or group of three (3) or more persons, whether formal or informal, that has as one of its primary activities, the commission of one (1) or more criminal or unlawful acts, or acts that would be criminal or unlawful if the actor were

an adult, specified in Sec. 939.22(21)(a) to (s), Wis. Stats., or in any of the Municipal Code sections referred to in Subsection (b)(2) below; that has a common name or common identifying sign or symbol and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

- (2) "Pattern of Criminal Gang Activity" has the same meaning as the definition in Sec. 939.22(21), Wis. Stats., the list of offenses in Subsections (a) to (s) of that Section to Title 11 of this Code of Ordinances.
- (3) "Unlawful Act" includes a violation of any of the Municipal Code sections referred to in Subsection (b)(2) above or any criminal act or act that would be criminal if the actor were an adult.
- (c) **Unlawful Activity.**
  - (1) It is unlawful for any person to engage in criminal gang activity.
  - (2) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years, to commit or attempt to commit any violation of the provisions of this Section, or any one (1) or more of those sections of the Municipal Code referred to in Subsection (b)(2) above.
  - (3) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years, to participate in criminal gang activity.
  - (4) It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years, to join a criminal gang.

#### SEC. 11-5-12 ENFORCEMENT AND PENALTIES.

- (a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-11, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11-5-2 through 11-5-11 by a person under the age of eighteen (18) shall be punishable according to Section 1-1-6 of this Code of Ordinances and Sections 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this Section shall prevent the juvenile officer, in his/her discretion, from referring cases directly to the District Attorney's office.

AN ORDINANCE REGARDING IMPOSITION OF JUVENILE DISPOSITIONS AND SANCTIONS IN THE MUNICIPAL COURT

The Village Board of the Village of Colfax, Wisconsin, do ordain as follows:

SECTION 1. Section 11-5-13 of the Code of Ordinances of the Village of Colfax, Wisconsin, is hereby created as follows:

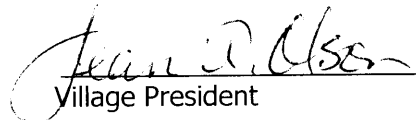
**Sec 11-5-13 MUNICIPAL COURT AUTHORITY TO IMPOSE  
ALTERNATIVE JUVENILE DISPOSITIONS AND  
SANCTIONS.**

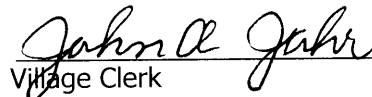
- (a) For a juvenile adjudged to have violated an ordinance, the municipal court is authorized to impose any of the dispositions listed in §§938.343 and 938.344, Wis. Stats., in accordance with the provisions of those statutes.
- (b) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under §§938.343 or 938.344, Wis. Stats., the municipal court is authorized to impose any of the sanctions listed in §938.355(6)(d), Wis. Stats., in accordance with the provisions of those statutes.
- (c) This section is enacted under the authority of §938.17(2)(cm), Wis. Stats.

SECTION 2. This ordinance shall take effect upon passage and publication as required by law.

Adopted: 09/14/2009

Published: 09/23/2009

  
Village President

  
Village Clerk



## Title 11 ► Chapter 6

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### **Public Nuisances**

<b>11-6-1</b>	Public Nuisances Prohibited
<b>11-6-2</b>	Public Nuisances Defined
<b>11-6-3</b>	Public Nuisances Affecting Health
<b>11-6-4</b>	Public Nuisances Offending Morals and Decency
<b>11-6-5</b>	Public Nuisances Affecting Peace and Safety
<b>11-6-6</b>	Abatement of Public Nuisances
<b>11-6-7</b>	Enforcement
<b>11-6-8</b>	Conflicts

#### **Sec. 11-6-1 Public Nuisances Prohibited.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Colfax.

#### **Sec. 11-6-2 Public Nuisance Defined.**

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) In any way render the public insecure in life or in the use of property;
- (c) Greatly offend the public morals or decency;
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

#### **Sec. 11-6-3 Public Nuisances Affecting Health.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition of Section 11-6-2:

**11-6-3**

- (a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (b) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (c) **Breeding Places for Vermin, Etc.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (d) **Stagnant Water.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (e) **Garbage Cans.** Garbage cans which are not fly-tight.
- (f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.
- (g) **Water Pollution.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (h) **Noxious Odors, Etc.** Any use of property, substances or things within the Village or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village of Colfax.
- (i) **Street Pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.
- (j) **Animals at Large.** All animals running at large.
- (k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.
- (l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

## **Sec. 11-6-4 Public Nuisances Offending Morals and Decency.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 11-6-2:

- (a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

- (b) **Gambling Devices.** All gambling devices and slot machines, except as permitted by state law.
- (c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the Village.
- (d) **Continuous Violation of Village Ordinances.** Any place or premises within the Village where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.
- (e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village.

### **Sec. 11-6-5 Public Nuisances Affecting Peace and Safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11-6-2:

- (a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of buildings and structures within the Village.
- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.
- (f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the Village.
- (h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

- (i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.
- (k) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.
- (l) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.
- (m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) **Flammable Liquids.** Repeated or continuous violations of the ordinances of the Village or laws of the State relating to the storage of flammable liquids.
- (o) **Unremoved Snow.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

## **Sec. 11-6-6    Abatement of Public Nuisances.**

- (a) **Inspections.** Whenever the Building Inspector, Fire Inspector or other authorized Village official shall, upon inspection of any premises within the Village, find that there is a violation of this Chapter, such official shall issue a written order, by registered mail with return receipt requested, to the owner and to the occupant of the premises to abate said violation within thirty (30) days after the date of said order, except as set forth in Subsection (e). Such written order, in addition to specifying and describing the violation, shall also set forth on the face thereof the provisions of Subsection (b).
- (b) **Appeal.** Any person aggrieved by an order of a Village official under this Section may, within thirty (30) days from the date of such order, request a hearing before the Board of Appeals. The request for said hearing must be made in writing to the Village Clerk-Treasurer's office within thirty (30) days of the date of said order. The Board of Appeals shall hold a hearing within seven (7) days from the date of the aggrieved party's request. The Village shall take no abatement action until such time as the requested hearing is held, except to remove a human health hazard in accordance with Subsection (e). At the hearing, the person aggrieved may appear in person and/or by attorney and may subpoena, present and cross-examine witnesses. At the close of the hearing, the Board of Appeals shall make

its determination in writing specifying its findings of facts and conclusions. If the Board of Appeals determines that a public nuisance did exist, the Board of Appeals may order the Village to proceed under Subsection (c), (d) and/or (f) of this Section.

- (c) **Abatement by Village.** If the inspecting officer determines that said nuisance is a human health hazard, as defined in Sec. 254.01, Wis. Stats., and is not abated within the time provided in Subsection (a), and there has been no appeal as set forth in Subsection (b), the officer shall file a written report of his/her findings with the Village Board, the Village Board shall direct the Health Officer, in case of health nuisances, and the Chief of Police, in all other cases to cause the abatement or removal of such public nuisance. If an appeal pursuant to Subsection (b) has been denied, the Village Board shall direct the Health Officer, in case of health nuisances, and the Chief of Police, in all other cases to cause the abatement or removal of such public nuisance.
- (d) **Abatement by Court Action.** If the inspecting officer determines that said nuisance is not a human health hazard as defined in Sec. 254.01, Wis. Stats., and the nuisance is not abated within the time provided in Subsection (a), and there has been no appeal as set forth in Subsection (b), the officer shall file a written report with his/her findings with the Village Board who may cause an action to abate such nuisance to be commenced in the name of the Village in the Dunn County Circuit Court, in accordance with the provisions of Ch. 823, Wis. Stats. If an appeal pursuant to Subsection (b) has been denied, the Village Board may cause an action to abate such nuisance to be commenced in the name of the Village in the Dunn County Circuit Court, in accordance with the provisions of Ch. 823, Wis. Stats. Nothing in this Subsection shall prevent the inspecting officer or the Village from taking action under Subsection (f).
- (e) **Summary Abatement.** If the inspecting officer deems it necessary to abate or remove a human health hazard found on private property, the inspecting officer shall serve notice on the owner or occupant to abate or remove the human health hazard within a reasonable time that is not less than twenty-four (24) hours. Notice shall be personally served on the owner or occupant. If such person(s) cannot be located, the inspecting officer shall cause a copy of said notice to be posted on the premises. If the owner or occupant fails to abate or remove the hazard within the time prescribed, the inspecting officer shall cause abatement or removal.
- (f) **Penalty.**
  - (1) Any person, firm or corporation which does not abate the nuisance within the required time period or who otherwise violates the provisions of this Section shall be subject to the general penalties found in Section 1-1-6.
  - (2) In addition to any penalties herein provided, the Village may issue stop work orders upon owners of lots where work is unfinished under a previously issued building permit for any violation of this Section.
  - (3) Any person receiving a ticket or demand for a general penalty under Section 1-1-6 regarding a violation of this Section, may request a hearing in front of the Board of Appeals by following the procedures outlined in Subsection (b).

**11-6-6**

- (4) In addition to any other penalty imposed by this Chapter, the cost of abating or removing a public nuisance by the Village shall be collected as a debt from the property owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge if not paid within sixty (60) days of the billing thereof.

**Sec. 11-6-7 Enforcement.**

The Chief of Police, Fire Chief, Director of Public Works and Building Inspector shall enforce those provisions of this Chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Section 11-6-6 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.

**Sec. 11-6-8 Conflicts.**

If any provision of this Chapter conflicts with the provisions of Title 8, Chapter 1 of this Code of Ordinances, the provisions of Title 8, Chapter 1 shall govern.