

## Chapter 58 OFFENSES AND MISCELLANEOUS PROVISIONS\*

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\*Cross references: Law enforcement, ch. 46; traffic and vehicles, ch. 94.

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## ARTICLE I. IN GENERAL

### Sec. 58-1. 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 city provided the penalty for commission of such offenses shall be limited to a forfeiture imposed under section 1-17:

#### TABLE INSET:

	Subject
Wis. Stats. § 48.983	Possession and use of tobacco products by underage persons prohibited.
Wis. Stats. § 50.58	Careless smoking.
Wis. Stats. § 110.075(7)	Producing/using inspection sticker fraudulently.
Wis. Stats. § 134.06	Motor vehicle sales/bonus to chauffeur prohibited.
Wis. Stats. § 134.71(1)	Violations by secondhand dealers.
Wis. Stats. § 144.42(2)	Pollution by motor vehicle/tampering with control system.
Wis. Stats. § 159.81	Littering.
Wis. Stats. § 175.25	Illegal storage of junked vehicles.

	Subject
Wis. Stats. § 218.01(7a)	Used cars/prohibited acts.
Wis. Stats. § 218.01(7b)	Motor vehicles/sale to minor.
Wis. Stats. § 939.05	Parties to crime.
Wis. Stats. § 939.22	Words and phrases defined.
Wis. Stats. § 939.32(1)(b)	Attempt.
Wis. Stats. § 940.19(1)	Battery.
Wis. Stats. § 940.32	Stalking.
Wis. Stats. § 940.34	Duty to aid victim or report crime.
Wis. Stats. § 940.42	Intimidation of witnesses; misdemeanor.
Wis. Stats. § 940.44	Intimidation of victims.
Wis. Stats. § 941.01	Negligent operation of vehicle.
Wis. Stats. § 941.10	Negligent handling of burning materials.
Wis. Stats. § 941.12(2), (3)	Interfering with firefighting.
Wis. Stats. § 941.13	False alarms.
Wis. Stats. § 941.20(1)	Reckless use of weapon.
Wis. Stats. § 941.23	Carrying concealed weapon.
Wis. Stats. § 941.235	Carrying firearm in public building.
Wis. Stats. § 941.237	Carrying handgun where alcohol beverages may be sold and consumed.
Wis. Stats. § 941.24	Possession of switchblade knife.
Wis. Stats. § 941.2965	Restrictions on use of facsimile firearms.
Wis. Stats. § 941.35	Emergency telephone calls.
Wis. Stats. § 941.36	Fraudulent tapping of electric wires or gas or water meters or pipes.
Wis. Stats. § 941.37	Obstructing emergency or rescue personnel.
Wis. Stats. § 943.01(1)	Criminal damage to property.
Wis. Stats. § 943.07(1)–(3)	Criminal damage to railroad.
Wis. Stats. § 943.07(4)	Intentionally depositing debris on railroad.
Wis. Stats. § 943.11	Entry into locked vehicle.
Wis. Stats. § 943.125	Entry into locked coin box.
Wis. Stats. § 943.13	Trespass to land.
Wis. Stats. § 943.14	Criminal trespass to dwellings.
Wis. Stats. § 943.145	Criminal trespass to a medical facility.
Wis. Stats. § 943.15	Entry onto construction site or into a locked building, dwelling or room.
Wis. Stats. § 943.20	Theft (value under \$1,000.00).
Wis. Stats. § 943.21	Fraud on hotel or restaurant keeper (value under \$1,000.00).
Wis. Stats. § 943.215	Absconding without paying rent.
Wis. Stats. § 943.22	Use of cheating tokens.
Wis. Stats. § 943.225	Refusal to pay for a motor bus ride.
Wis. Stats. § 943.24	Issue of worthless checks.
Wis. Stats. § 943.34(1)(a)	Receiving stolen property (value under \$500.00).
Wis. Stats. § 943.35	Receiving property from children.
Wis. Stats. § 943.37	Alteration of property identification marks.
Wis. Stats. § 943.41(8)(a), (c)	Financial transaction and crimes.

	Subject
Wis. Stats. § 943.61	Theft of library material (value under \$500.00).
Wis. Stats. § 943.75	Unauthorized release of animals.
Wis. Stats. § 944.20	Lewd and lascivious behavior.
Wis. Stats. § 944.23	Making lewd, obscene or indecent drawings.
Wis. Stats. § 944.30	Prostitution.
Wis. Stats. § 944.31	Patronizing prostitutes.
Wis. Stats. § 944.33(1)	Pandering.
Wis. Stats. § 944.36	Solicitation of drinks prohibited.
Wis. Stats. § 945.01	Definitions relating to gambling.
Wis. Stats. § 945.02	Gambling.
Wis. Stats. § 945.04	Permitting premises to be used for commercial gambling.
Wis. Stats. § 946.06	Improper use of flag.
Wis. Stats. § 946.40	Refusing to aid officer.
Wis. Stats. § 946.41(1)	Resisting or obstructing officer.
Wis. Stats. § 946.42(2)	Escape.
Wis. Stats. § 946.45	Negligently allowing escape.
Wis. Stats. § 946.46	Encouraging violation of probation or parole.
Wis. Stats. § 946.67	Compounding crime.
Wis. Stats. § 946.68	Simulating legal process.
Wis. Stats. § 946.69	Falsely assuming to act as a public officer.
Wis. Stats. § 946.70(1)	Impersonating peace officer.
Wis. Stats. § 946.72(2)	Tampering with public records and notices.
Wis. Stats. § 947.01	Disorderly conduct.
Wis. Stats. § 947.012	Unlawful use of telephone.
Wis. Stats. § 947.013(1m), (1r)	Harassment.
Wis. Stats. § 947.06	Unlawful assemblies.
Wis. Stats. § 947.04	Drinking in common carriers.
Wis. Stats. § 948.605	Gun free school zones.
Wis. Stats. § 948.01	Definitions.
Wis. Stats. § 948.40	Contributing to delinquency of a child.
Wis. Stats. § 948.45	Contributing to truancy.
Wis. Stats. § 948.61	Dangerous weapons other than firearms on school property.
Wis. Stats. § 948.62	Receiving stolen property from a child.
Wis. Stats. § 948.63	Receiving property from a child.
Wis. Stats. § 948.70	Tattooing of a child.
Wis. Stats. § 951.01	Definitions.
Wis. Stats. § 951.015	Construction and application.
Wis. Stats. § 951.02	Mistreating animals.
Wis. Stats. § 951.025	Decompression prohibited.
Wis. Stats. § 951.03	Dognapping and catnapping.
Wis. Stats. § 951.04	Leading animal from motor vehicle.
Wis. Stats. § 951.05	Transportation of animals.
Wis. Stats. § 951.06	Use of poisonous and controlled substances.

	Subject
Wis. Stats. § 951.09	Shooting at caged or staked animals.
Wis. Stats. § 951.095	Harassment of police animals.
Wis. Stats. § 951.10	Sale of baby rabbits, chicks and other fowl.
Wis. Stats. § 951.11	Artificially colored animals; sale.
Wis. Stats. § 951.13	Providing proper food and drink to confined animals.
Wis. Stats. § 951.14	Providing proper shelter.
Wis. Stats. § 951.15	Animals; neglected or abandoned; police powers.
Wis. Stats. § 951.16	Investigation of cruelty complaints.
Wis. Stats. § 951.162	Reports of animal fighting.
Wis. Stats. § 951.165	Animal fighting; seizure.
Wis. Stats. § 951.17	Reimbursement for expenses.
Wis. Stats. § 961.571	Definitions.

(Code 1983, §§ 9.29.288--9.947.10)

### **Sec. 58-2. Penalty for violation of chapter.**

Except as otherwise provided, any person who violates this chapter shall be subject to a penalty as provided in section 1-17.

(Code 1983, § 4.05(3))

### **Sec. 58-3. Advertisements on city property.**

No person shall paint or post any bill, notice, picture or advertisement upon any public building, curbstone, crosswalk, gutter, street, sidewalk, hydrant or lamppost within the city without prior authorization from the council.

(Code 1983, § 9.11)

### **Sec. 58-4. Burning of rubbish and garbage prohibited.**

No person, other than the city and its agents or licensed contractors, shall set fire to or burn any garbage or rubbish on any street or on any public or private premises.

(Code 1983, § 11.07(4))

**Cross references:** Fire prevention and protection, ch. 34; solid waste, ch. 78.

### **Sec. 58-5. Obstructing streets and sidewalks prohibited.**

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the city in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

(Code 1983, § 9.09)

**Sec. 58-6. Obstruction of highway by loitering.**

No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon such places after being requested to move on by any police officer.

(Code 1983, § 9.12(2))

**Sec. 58-7. Disorderly conduct.**

(a) *Prohibited.* No person within the city 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 urination 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 city, 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.

(c) *Disorderly conduct with a motor vehicle.* (Motor vehicle includes any motorized vehicle.)

- (1) Any violation of section 58-7(a) or (b) above or any other applicable city ordinance involving the use or operation of a motor vehicle.
- (2) To intentionally cause a motor vehicle to follow an irregular path on any city street or parking lot customarily used by or held open for access by the public. The operation of a motor vehicle in an irregular path is described as: the intentional operation of a motor vehicle in a swerving, swaying or bouncing manner, which is the direct result by the operator of such vehicle involved as a display of power or actions intended as horseplay.
- (3) To cause a motor vehicles tires to squeal, scrape, drag or project or spray any material thrown up by the tires of such vehicle from any surface unnecessarily, due to over acceleration or deceleration, while on public or private property within the city.

(Ord. No. OR01-07, § I, 7-30-2001)

## **Sec. 58-8. Offenses 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 city 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) of this section, 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 its 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.***

- (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) Nonstudents, 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 in this section.
- (3) All entrances to the school buildings referred to in subsection (a) of this section 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 city summons that regulates parking

or may be towed away at the direction of the school principal or person in charge of such school's 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.* 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 city 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:

*Loiter* means 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.

*Nuisance* means 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 city.

#### **Sec. 58-9. Obstruction of traffic by loitering.**

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

(Code 1983, § 9.12(3))

#### **Sec. 58-10. Loitering after being requested to move.**

No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police officer or by any person in authority at such places.

(Code 1983, § 9.12(4))

#### **Sec. 58-11. Loitering in public places.**

No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any police officer. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area at the time of the request.

(Code 1983, § 9.12(5))

## **Sec. 58-12. Regulation of firearms, explosives, and other missiles.**

- (a) *Discharge of firearms regulated.* No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, airgun or pneumatic pellet gun of any description in his possession or under his control within the city, provided that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the common council.
- (b) *Hunting prohibited.* Hunting within the city is prohibited, but the chief of police may issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property, and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the city.
- (c) *Shooting into city limits.* No person shall in the territory adjacent to the city discharge any firearm in such manner that the discharge shall enter or fall within the city.
- (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 common council, 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 city without first obtaining a permit to do so from the common council.
- (f) *Throwing or shooting of arrows, 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, bow and arrow or other means within 300 feet of any inhabited dwelling or building or any public park, square or enclosure.
  - (2) This subsection (b) 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 common council.
    - c. Within the interior of a single-family dwelling.
- (g) *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. 58-13. Carrying concealed weapons prohibited; certain weapons prohibited.**

- (a) *Concealed weapons prohibited.*

- (1) *Prohibition.* No person, except a police officer authorized to serve process, shall go armed with any concealed and dangerous weapon within the city.
  - (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, slingshot, crossknuckle of lead, brass or other materials, Bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the city.
- (d) *Possession, sale, and manufacture of certain weapons prohibited.*
- (1) No person shall 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 "sucbai" 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 city.
  - (2) For the purpose of this section, the following definitions shall apply:
    - a. *Numchuk or nunchaku* means an instrument consisting of two or more sticks, clubs or rods connected by a rope, cord, wire or chain.
    - b. *Churkin* means a round throwing knife consisting of several sharp points protruding from a rounded disc.
    - c. *Sucbai* means a short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.

- (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the state crime laboratory for destruction.
- (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, airgun, knife or bow and arrow.
  - b. No person shall operate or go armed with a firearm, airgun, knife or bow and arrow while he is under the influence of an intoxicant.
  - c. No person shall intentionally point a firearm, airgun, 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.

(Code 1983, § 9.02)

#### **Sec. 58-14. Safe use and transportation of firearms and bows.**

- (a) *Definitions.* In this section:

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

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

*Firearm* means a weapon that acts by force of gunpowder.

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

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

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

*Unload* means any of the following:

- (1) Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
- (2) In the case of a caplock muzzle-loading firearm, having the cap removed.
- (3) In the case of a flintlock muzzle-loading firearm, having the flashpan cleaned of powder.

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

- (b) *Prohibitions; motorboats and vehicles; highways and roadways.*

- (1) Except as provided in subsection (c) of this section, 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) of this section, 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) of this section, 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) of this section, 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 50 feet from the center of a road.
  - (5) A person who violates subsections (b)(1) through (b)(4) of this section is subject to a forfeiture pursuant to section 1-17.
- (c) *Exceptions.*
- (1) Subsection (b) does not apply to any authorized persons 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.

#### **Sec. 58-15. 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 duty, or to in any way interfere with or hinder or prevent him 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 official capacity in carrying out his duties.

#### **Sec. 58-16. Duties of citizens to assist police.**

No person, without reasonable excuse, shall refuse or fail to aid any police officer in the performance of his duties when called upon to do so by such officer.

(Code 1983, § 4.05(1))

**Sec. 58-17. Unlawful assemblies.**

Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk that causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks is prohibited.

(Code 1983, § 10.05(12))

**Sec. 58-18. 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. 58-19. Harassment.**

- (a) Whoever, with intent to harass or intimidate another person, does any of the following is subject to a forfeiture as provided in section 1-17:
  - (1) Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same.
  - (2) Engages 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 section 1-17:
  - (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.

(Ord. No. OR98-08, § i, 3-9-1998)

**Sec. 58-20. Throwing or shooting, arrows, stones and other missiles prohibited.**

No person, on foot or from any vehicle, conveyance or bicycle shall throw, shoot or

propel any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, on or into any building, structure, vehicle, street, sidewalk, alley, highway, park, playground or other public place within the city.

(Code 1983, § 9.05)

### **Sec. 58-21. Abandoned or unclaimed property.**

- (a) *Statutory authorization.* This section is adopted pursuant to Wis. Stats. § 66.28.
- (b) *State law adopted.* The provisions of Wis. Stats. § 66.28, describing and defining regulations with respect to disposal of abandoned property, are adopted and by reference made a part of this section as if fully set forth in this section.
- (c) *Method of disposal.* All personal property which has been abandoned or remains unclaimed for a period of 30 days, including bicycles or parts thereof, may be disposed of by public sale, sealed bid, conversion to public use, donation to charity or by junking or salvage. The method of disposal shall be at the sole option of the chief of police and as may be in the best interest of the city. If the owner of the property is known, the 30-day period shall commence on the date of mailing a notice by registered mail to the owner's last known address. If ownership is unknown, the 30 days shall commence on the date the property is taken into possession by the city chief of police/police department.
- (d) *Storage and fees.* Any property remaining unclaimed beyond the 30 days shall be subject to a storage fee on a per-day basis commencing with the expiration of the 30-day period and continuing until the property is reclaimed or disposed of. Such storage fee shall be posted by the city chief of police.

(Ord. No. OR98-10, § I, 3-9-1998)

### **Sec. 58-22. Truancy.**

- (a) *Prohibition of truancy.* A child is prohibited from being a truant.
- (b) *Definitions.* For purposes of this section:
  - Acceptable excuse* shall mean an acceptable excuse as defined in Wis. Stats. §§ 118.15 and 118.16(4).
  - Truant* shall mean a pupil who is absent from school without an acceptable excuse for part or all of any day, on which school is held during a school semester.
- (c) *Penalty.* Upon finding that a child is truant, the court shall enter an order making one or more of the following dispositions:
  - (1) Order the person to attend school.
  - (2) Impose a forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. § 938.37, and subject to a maximum accumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All

or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

(Ord. No. OR00-04, § 1, 2-29-2000)

**Sec. 58-23. Habitual truancy.**

(a) *Prohibition of habitual truancy.* A child is prohibited from being an habitual truant.

(b) *Definitions.* For the purpose of this section:

*Acceptable excuse* shall mean an acceptable excuse as defined in Wis. stats. §§ 118.15 and 118.16(4).

*Habitual truant* shall mean a pupil who is absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.

(c) *Penalty.* Upon finding that a child is an habitual truant, the court shall enter an order making one or more of the following dispositions:

- (1) Suspend the child's operating privilege, as defined in Wis. Stats. § 340.01(40), for not less than 30 days nor more than one year. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.
- (2) Order the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stats. § 938.34(5g). The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.
- (3) Order the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
- (4) Order the person to attend an educational program as described in Wis. Stats. § 938.34(7d).
- (5) Order the department of workforce development to revoke, under Wis. Stats. § 103.72, a permit under Wis. Stats. § 103.70, authorizing the employment of the person.
- (6) Order the person to attend school.
- (7) Order a forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
- (8) Order reasonable conditions consistent with Wis. Stats. § 118.163(2), including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

- (9) Place the person under formal or informal supervision, as described in Wis. Stats. § 938.34(2) for up to one year.
- (10) Order the person's parent, guardian or legal custodian to participate in counseling at the parents, guardians or legal custodian's own expense or to attend school with the person, or both.

(Ord. No. OR00-04, § 1, 2-29-2000)

### **Sec. 58-24. Dropout.**

- (a) *Prohibition of school dropout.* A child is prohibited from being a school dropout.
- (b) *Definitions.* For purpose of this section:

*Acceptable excuse* shall mean acceptable excuse as defined in Wis. Stats. §§ 118.15 and 118.16.

*Dropout* shall mean a child, who has ceased to attend school, does not attend a public or private school, technical college or home based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse for nonattendance of school.

- (c) *Penalty.* Upon finding a child is a dropout, the court shall enter an order suspending the operating privilege of a person who is at least 16 years of age at less than 18 years of age. The court may suspend the person's operating privilege until the person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with notice stating the reason for the duration of the suspension.

(Ord. No. OR00-04, § 1, 2-29-2000)

### **Sec. 58-25. Sanctions for violations of dispositional orders.**

- (a) *Subsequent dispositional orders.* After holding a hearing, the municipal court may impose sanctions on juveniles who violate their dispositional order related to truancy, habitual truancy or dropping out of school regardless of whether the particular sanction was imposed as a disposition in the order violated by the juvenile, provided:
  - (1) At the juvenile's dispositional hearing, the court explained the conditions of the dispositional order to the juvenile and informed the juvenile of the possible sanctions that could be imposed for a violation of those conditions; or
  - (2) Before the subsequent violation, the juvenile has acknowledged in writing that he or she has read or has read to him or her, those conditions and possible sanctions and he or she understands the conditions and possible sanctions.
- (b) *Subsequent dispositional order for truancy.* If the court finds a violation of a condition of a truancy dispositional order, the court may order as a sanction any combination of the following:
  - (1) Suspension of the child's operating privilege, as defined in Wis. Stats. § 340.04,

for not more than one year. If the juvenile does not hold a valid driver's license, other than instruction permit or a restricted license, the court may order the suspension to begin on the date the license would otherwise be reinstated or issued or two years after the date of the order, whichever occurs first.

- (2) Order the child to participate in counseling or a supervised work program or other community service work as described in Wis. Stats. § 938.34(5g). The cost of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.
  - (3) Order the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
  - (4) Order the person to attend an educational program as described in Wis. Stats. § 938.34(7d).
  - (5) Order the department of workforce development to revoke, under Wis. Stats. § 103.72, a permit under Wis. Stats. § 103.70, authorizing the employment of the person.
  - (6) Order the person to attend school.
  - (7) Order a forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
  - (8) Order reasonable conditions consistent with Wis. Stats. § 118.163(2), including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
  - (9) Place the person under formal or informal supervision, as described in Wis. Stats. § 938.34(2) for up to one year.
  - (10) Order the person's parent, guardian or legal custodian to participate in counseling at the parents, guardians or legal custodian's own expense or to attend school with the person, or both.
- (c) *Subsequent dispositional order for habitual truancy.* If the court finds a subsequent violation of a condition of a habitual truancy dispositional order, the court may order as a sanction any combination of the following:
- (1) Petition the juvenile court of the county to impose sanction. If the juvenile court imposes a sanction, the juvenile court must order the city to pay the county the costs of providing the sanction. A petition for placement of a juvenile in secured detention facility or juvenile portion of a county jail is subject to the adoption of a resolution by the county board of supervisors authorizing the use of these placements as a sanction.
  - (2) Suspend the operating privilege or place a limitation on the operating privilege,

as defined in Wis. Stats. § 340.01(4). Suspend or place a limitation on any fish or game license for not more than one year. If the juvenile does not hold a valid driver's license, other than instructional permit or a restricted license, the court may order the suspension to begin on the date the license would otherwise be reinstated or issued or two years after the date of the order, whichever occurs first.

- (3) Order counseling or participation for not more than 25 hours in a supervised work program or other community service work. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.
- (d) *Subsequent dispositional order for dropouts.* If the court finds subsequent violation of a condition of a dropout dispositional order, the court may impose any of the sanctions listed in subsections (1) to (4) below. In order to impose the secured detention sanction specified in subsection (1) below, or home detention with monitoring by electronic monitoring system in subsection (3) below the court must first petition the juvenile court to impose the sanctions listed in subsection (1) or subsection (3) below. If the juvenile court imposes the secured detention sanction or the monitoring by electronic monitoring system sanction, the juvenile court shall also order the city to pay the county the cost of providing the sanction.
- (1) Placement of the juvenile in a secured detention facility or the juvenile portion of a county jail that meets the standards promulgated by the department of correction (DOC) or in place or nonsecured custody, for not more than ten days and the provisions of educational service consistent with the juvenile's current course of study during the period of placement.
  - (2) Suspension or limitation of the use of the juvenile's operating privileges or any fish or game license for a period of not more than three years. If the juvenile does not hold a valid driver's license, other than a instruction permit or restricted license, the court may order the suspension to begin on the date the license would otherwise be reinstated or issued or two years after the date of the order, whichever occurs first.
  - (3) Detention of the juvenile's home or current residence for a period not more than 30 days under rules of supervision specified in the order. The order may require electronic monitoring.
  - (4) Not more than 25 hours of uncompensated participation in a supervised work program or other community service work.
- (e) *Contempt sanctions.* If a juvenile commits a second or subsequent violation of a condition imposed in his or her dispositional order, the court may impose contempt upon the juvenile.

(Ord. No. OR00-04, § 1, 2-29-2000)

### **Sec. 58-26. Parental responsibility for juvenile misconduct.**

- (a) *Purpose.* The purpose of this section is to reduce the incidents of misconduct by

juveniles by requiring proper supervision on the part of custodial parents.

(b) *Definitions.* For purposes of this section, unless otherwise defined, the term:

*Child* means a person under the age of 18 years.

*Convicted* includes entering a plea of guilty, entering a plea of no contest, and/or being convicted by a court having proper jurisdiction.

*Custodial parent* means a parent or legal guardian of a child who has custody of said child.

*Custody* means either physical custody of a child under a court order under Wis. Stats. § 767.23 or 767.24, custody of a child under a stipulation under Wis. Stats. § 767.10, or actual physical custody of the child. Custody does not include legal custody, as defined under Wis. Stats. § 48.02(12) by an agency or a person other than a child's birth or adoptive parent. In determining which parent has custody of a child for purposes of this section, the court shall consider which parent had responsibility for caring for and supervising the child at the time that the child's ordinance violations occurred.

(c) *Prohibited conduct.* Every custodial parent has a duty to properly supervise his or her child. Any custodial parent whose child is convicted of a municipal code violation twice in a six-month period or three or more times within a 12-month period is guilty of failing to properly supervise said child. The six and 12-month periods provided in this subsection (c) shall be measured from the date of the first violation.

(d) *Penalty.* The offense described under subsection (c) shall be subject to a penalty of not less than \$250.00 nor more than \$1,000.00. A parent who provides specific evidence of enrollment into a court approved parenting class, family therapy, or other professional counsel, by the initial appearance date, and who participates and completes the court ordered program within 120 days following the initial court appearance date, shall have no monetary penalty.

(e) *Defenses.*

(1) The following shall be defenses to a violation of subsection (c) above:

- a. Where the custodial parent has made all reasonable and available efforts under the circumstances to prevent the child's misconduct;
- b. Where the custodial parent is not legally responsible for the supervision of the child at the time the misconduct occurred;
- c. Where the custodial parent has a physical or mental disability or incompetency rendering him or her incapable of supervising the child at the time the misconduct occurred; or
- d. Where the custodial parent reported the misconduct to the appropriate authorities.

(2) It is not a defense where the custodial parent assigns their parental responsibility to another, except pursuant to legal proceedings, which result in a court order effectuating the same.

(3) The custodial parent has the burden of proving his or her defense under this

subsection (e), by clear and satisfactory evidence.

(Ord. No. OR00-09, § 1, 5-9-2000)

Secs. 58-27--58-40. Reserved.

## **ARTICLE II. UNLAWFUL NOISES**

### **Sec. 58-41. Definitions.**

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

*Commercial music* means any music subject to this article, which may or may not require a fee by the entertainer or music provider, which is intended to be a performance for the general public's enjoyment. Such commercial music shall include but not be limited to any band, group, deejay or music provider.

*Light-motor vehicles* means any automobile, van, motorcycle, motor-driven cycle, motorscooter, dune buggy, snowmobile, all-terrain vehicle, go-cart, minibike, trail bike, or truck with gross vehicular weight of less than 8,000 pounds.

*Modified and defective exhaust systems* means an exhaust system in which the original noise abatement devices have been physically altered causing them to be less effective in reducing noise as their original devices and/or have been added to the original noise abatement devices such that noise levels are increased.

*Traffic noise* means sounds made by a motor vehicle operated either on the public right-of-way or private property.

*Vehicle* means any light-motor vehicle, any heavy-motor vehicle, heavy equipment, construction equipment, truck, tractor or the like.

All definitions and terminology used in this article not defined above shall be defined in conformance with an applicable publication of the American National Standards Institute (ANSI), or its successor body.

(Ord. No. OR97-12, § 1(9.10(1)), 9-8-1997)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 58-42. Excessive noise.**

The following acts among others are declared to be loud or disturbing noises in violation of this article, but such enumeration shall not be deemed to be exclusive:

- (1) The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place except as a danger warning; the creation by means of any such signaling device of any unreasonably loud and raucous sound; the sounding of any such device for an 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 such signaling device when traffic is for any reason held up.

- (2) The operation of a vehicle in such manner as to cause excessive noise levels as a result of a defective or modified exhaust system, or as a result of unnecessary rapid acceleration, deceleration, revving or tire squealing of a vehicle, or operation of audio devices at an excessive level.
- (3) Using, operating or permitting to be played, used or operated, any audio device, musical instrument, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person who is in the room, vehicle or chamber in which such machine or device is operated and who is a voluntary listener. The operation of any such audio device, musical instrument, or other machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this article.
- (4) Playing, using, operating or permitting to be played, used or operated, any audio device, musical instrument, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound that is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- (5) Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence or of any person in the vicinity.
- (6) In areas zoned other than R-1, R-2, or R-3, 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 city authorities.
- (7) The discharge into the open air of the exhaust of any diesel engine, stationary internal combustion engine, motorboat, motor vehicle, lawnmower or other similar device, except through a muffler or other device that will effectively prevent loud or explosive noises. The operation between the hours of 11:00 p.m. and 7:00 a.m. of any piledriver, power-driven shovel, pneumatic hammer, derrick, power- or electric-driven hoist or similar appliance, the use of which is attended by loud or unusual noise.
- (8) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers, outside of areas zoned commercial or industrial.
- (9) The erection (including excavating), demolition, alteration or repair of any building, other than between the hours of 7:00 a.m. and 6:00 p.m., except in case of urgent necessity in the interest of public health and safety, and then

only with a permit from the building inspector. The permit may be granted for a period not to exceed three days or less while the emergency continues and may be renewed for periods of three days or less while the emergency continues. If the building inspector shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building, within the hours of 6:00 p.m. and 7:00 a.m., and further determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

- (10) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.

(Ord. No. OR97-12, § 1(9.10(2)), 9-8-1997)

### **Sec. 58-43. Permit for playing noncommercial music in public places.**

- (a) The protections of persons and property committee shall have the authority to grant an annual permit to persons who desire to play noncommercial music in public places. Such permit requests shall be reviewed in light of the applicant's providing the following information in written form to the committee:
  - (1) Name and address of applicant.
  - (2) Nature of music to be played.
  - (3) Times and dates when music will be played.
  - (4) A statement verifying that the music will be noncommercial in nature.
- (b) Upon submission of the information specified in subsection (a), the board shall review the information; and if it determines that a public nuisance will not be created that would disturb, injure or endanger the peace and safety of others, an annual permit shall be issued. Any permit granted by the board of public works may be revoked upon a determination that the playing of such music creates a loud, raucous, unreasonable or offensive noise in violation of this article.

(Ord. No. OR97-12, § 1(9.10(3)), 9-8-1997)

### **Sec. 58-44. Improper acceleration.**

It shall be unlawful for any person operating a motor vehicle upon any public street, roadway or alley or upon any private driveway or parking lot in the city to start such vehicle from a stopped position in such a manner as to cause one or more of its tires to slip, skid or squeal in a loud manner calculated to disturb the persons present at or near such place or in such a manner calculated to cause or causing rocks, pebbles, snow or other debris to be thrown or thrust out from under such wheels or tires in a manner calculated to cause or causing injury to persons present at or near such place or private or public property at or near such place.

(Ord. No. OR97-12, § 1(9.10(4)), 9-8-1997)

**Sec. 58-45. Improper slowing or stopping.**

It shall be unlawful for any person operating a motor vehicle upon any public street or roadway in the city to apply the brakes of such vehicle or to stop, turn or slow such vehicle in such a manner as to cause one or more of its wheels or tires to skip, skid or squeal in a loud manner calculated to disturb the persons present at or near such place, except to avoid an accident or collision.

(Ord. No. OR97-12, § 1(9.10(5)), 9-8-1997)

**Sec. 58-46. Exemptions.**

The following are exempted from the provisions of this article:

- (1) Sound emitted from sirens of authorized emergency vehicles.
- (2) Burglar alarms on light-motor vehicles of the electronic signaling type that transmit an audible signal to a receiver that can be carried by the owner or operator of the vehicle.
- (3) Celebrations in connection with duly authorized parades or events.
- (4) Use of personal snow removal equipment or lawn mowing equipment.

(Ord. No. OR97-12, § 1(9.10(5a)), 9-8-1997)

**Sec. 58-47. Penalties.**

Upon conviction of violation of this article, or any subsection, the violator shall be punished as determined by section 1-17.

(Ord. No. OR97-12, § 1(9.10(6)), 9-8-1997)

Secs. 58-48--58-75. Reserved.

**ARTICLE III. OFFENSES AGAINST MORALS AND DECENCY**

**Sec. 58-76. Public nuisances offending morals and decency.**

The following acts, omissions, places, conditions and things are 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 within the definition of section 70-2:

- (1) *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.
- (2) *Gambling devices.* All gambling devices and slot machines.

(Code 1983, § 10.04)

Secs. 58-77--58-100. Reserved.

## **ARTICLE IV. MINORS\***

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**\*Cross references:** Employment of minors in alcohol beverage establishments, § 6-43(2).

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### **DIVISION 1. GENERALLY**

#### **Sec. 58-101. Firearms to minors.**

No dealer or other person in the city shall loan, sell or give any pistol or revolver to any minor.

(Code 1983, § 9.03)

Secs. 58-102--58-120. Reserved.

### **DIVISION 2. CURFEW**

#### **Sec. 58-121. Children in street at night.**

No child under the age of 18 years shall loiter, idle or remain upon any street or alley or other public place in the city between 10:00 p.m. on Sundays, Mondays, Tuesdays, Wednesdays or Thursdays and 6:00 a.m. the next day, and between 12:01 a.m. and 6:00 a.m. on Saturdays and Sundays, unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child or such child is in lawful employment making it necessary to be in such place after the time stated.

(Code 1983, § 9.21(1))

#### **Sec. 58-122. Parental violation.**

No parent, guardian or other person having legal custody of a child under the age of 18 years shall permit such child to loiter, idle or remain upon any street or alley or other public place in the city between 10:00 p.m. on Sunday through Thursday and 6:00 a.m. the next day, and between 12:01 a.m. and 6:00 a.m. on Saturdays and Sundays unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child or such child is in lawful employment making it necessary to be in such place after the time stated.

(Code 1983, § 9.21(2))

#### **Sec. 58-123. Detaining a child.**

A child believed to be violating the provisions of this division shall be taken to the police department or the sheriff's department for proper identification. Every law enforcement officer while on duty may detain any child violating section 58-121 until such time as the parent, guardian or person having legal custody of the child shall be immediately notified; and the person so notified shall, as soon as reasonably possible thereafter, report to the police station or sheriff's office for the purpose of taking the child into custody and shall sign a release for him.

(Code 1983, § 9.21(3))

#### **Sec. 58-124. Warning.**

The first time a parent, guardian or person having legal custody of a child detained by law enforcement officers as provided in section 58-123 shall be advised as to the provisions of this division and further advised that any violation of this division occurring thereafter by this child or any other child under his care or custody shall result in a penalty being imposed.

(Code 1983, § 9.21(4))

#### **Sec. 58-125. Penalty for violation of division.**

Any parent, guardian or person having legal custody of a child described in section 58-121 who has been warned in the manner provided in section 58-124 and who thereafter violates any provision of this division shall be subject to a penalty as provided in section 1-17.

(Code 1983, § 9.21(5))

Secs. 58-126--58-140. Reserved.

### **DIVISION 3. TOBACCO PRODUCTS**

#### **Sec. 58-141. Definitions.**

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

*Cigarette* has the meaning given in Wis. Stats. § 139.30(1).

*Law enforcement officer* has the meaning given in Wis. Stats. § 30.50(4s).

*Tobacco products* has the meaning given in Wis. Stats. § 139.75(12).

(Ord. No. OR95-04, § 1(9.24(1)), 11-27-1995)

**Cross references:** Definitions generally, § 1-2.

#### **Sec. 58-142. Restricted actions.**

Except as provided in section 58-144, no person under the age of 18 may do any of the

following:

- (1) Falsely represent his age for the purpose of receiving any cigarette or tobacco product.
- (2) Buy or attempt to buy any cigarette or tobacco product.
- (3) Possess any cigarette or tobacco product.

(Ord. No. OR95-04, § 1(9.24(2)), 11-27-1995)

### **Sec. 58-143. Providing cigarettes, tobacco products.**

No person shall knowingly provide any person under the age of 18 a cigarette or tobacco product.

(Ord. No. OR95-04, § 1(9.24(3)), 11-27-1995)

### **Sec. 58-144. Purchase, possession of cigarettes, tobacco products.**

A person under the age of 18 may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his working hours if employed by a retailer licensed under Wis. Stats. § 134.65(1).

(Ord. No. OR95-04, § 1(9.24(4)), 11-27-1995)

### **Sec. 58-145. Seizure by law enforcement officer.**

A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of section 58-142 or 58-143 committed in the officer's presence.

(Ord. No. OR95-04, § 1(9.24(5)), 11-27-1995)

### **Sec. 58-146. Penalty for violation of division.**

A person found in violation of this division shall be fined not less than \$10.00 nor more than \$25.00 plus court costs and related assessments.

(Ord. No. OR95-04, § 1(9.24(6)), 11-27-1995)

Secs. 58-147--58-166. Reserved.

## **ARTICLE V. OFFENSES AGAINST PROPERTY**

### **Sec. 58-167. Destruction or theft of property.**

- (a) *Destruction of property.* No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the city, the Brillion School District, or to any private person, business or organization 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 city 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 Wis. Stats. § 895.035, the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$2,500.00.
- (c) *Theft of property.* No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without that other person's consent and with intent to deprive the owner permanently of possession of such property.

### **Sec. 58-168. Littering.**

- (a) *Prohibited.* No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the city, or upon property within the city owned by the school district or any private person, or upon the surface of any body of water within the city.
- (b) *Litter from conduct of commercial enterprise.*
  - (1) *Scope.* The provisions of this subsection (b) shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
  - (2) *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 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) *Picked up at litterer's expense.* If any person, firm, corporation or association fails to pick up any litter as required by subsection (b)(2) within the time specified, the city shall arrange to have the same picked up by city crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of 20 percent for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the city 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 common council or street superintendent pursuant to the provisions of this Code, 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 city except by being handed to the recipient, placed on the porch, stoop or entranceway 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, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

**Sec. 58-169. Theft of library material.**

(a) *Definitions.* For the purposes of this section, certain words and terms are defined as follows:

*Archives* means a place in which public or institutional records are systematically preserved.

*Library* means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the city and school libraries.

*Library material* includes any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microfilm, sound recording, audiovisual material 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 city 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 1-17.
- (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 Brillion 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 1-17.

**Cross references:** Library, ch. 50.

**State law references:** Theft of library material generally, Wis. Stats. § 943.61.

### **Sec. 58-170. 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 city.
- (b) *Breaking of street lamps or windows.* No person shall break glass in any streetlamps or windows of any building owned or occupied by the city.
- (c) *Damaging fire hydrants and water mains.* No person shall, without the authority of city 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. 58-171. 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) of this section.
- (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 to concealing such goods.
- (c) A merchant or merchant's employee who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- (d) If the value of the merchandise does not exceed \$100.00, and person violating this section shall forfeit not more than \$200.00. If the value of the merchandise exceeds \$100.00, this section shall not apply and the matter shall be referred to the district attorney for criminal prosecution.

**State law references:** Retail theft generally, Wis. Stats. § 943.50.

### **Sec. 58-172. Issuance of worthless checks.**

- (a) Whoever issues any check or other order for the payment of money less than \$500.00 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;
  - (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 days after receiving notice of nonpayment 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 days after receiving notice of nonpayment 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. 58-173. 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. 58-174. Regulation of smoking.**

- (a) *State statute adopted.* The provisions of Wis. Stats. § 101.123, 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 in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited by this section. Any future amendment, revisions or modifications of the statutes incorporated in this section 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 city.* In recognition of a need to protect the health and comfort of the public and city employees from the detrimental effects of smoking, pursuant to the authority granted to the city by Wis. Stats. § 101.123(2)(c), smoking as defined by Wis. Stats. § 101.123(1)(h), is hereby prohibited by any person within or upon all buildings and enclosed equipment owned, leased or rented by the city, except in designated areas this prohibition shall apply to the general public as well as city employees.

**Sec. 58-175. Theft.**

No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property, if such property has a value of \$500.00 or less.

Secs. 58-176--58-195. Reserved.

**ARTICLE VI. OFFENSES INVOLVING DRUGS**

**Sec. 58-196. Possession of marijuana.**

- (a) No person shall possess any marijuana or other illegal drugs, as defined in Wis. Stats. § 961.01, 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 Wis. Stats. ch. 161.

- (b) For purposes of this section, "practitioner" means:
- (1) 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.
  - (2) 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.
- (c) This section does not apply to any person who is charged with possession of more than 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.

**State law references:** Possession of marijuana generally, Wis. Stats. § 66.051(1)(b).

### **Sec. 58-197. Possession of drug paraphernalia.**

Any person who violates Wis. Stats. § 961.573, which is adopted by reference in this section as if fully set forth in this section shall be subject to disposition as provided in Wis. Stats. § 938.344(2e).

### **Sec. 58-198. Manufacture or delivery of drug paraphernalia.**

Any person who violates Wis. Stats. § 961.574, which is adopted by reference in this section as if fully set forth in this section, shall be subject to disposition as provided in Wis. Stats. § 938.344(2e).

### **Sec. 58-199. Delivery of drug paraphernalia to a minor.**

Any person who violates Wis. Stats. § 961.575, which is adopted by reference in this section as if fully set forth in this section, shall be subject to disposition as provided in Wis. Stats. § 938.344(2e).

Secs. 58-200--58-215. Reserved.

## **ARTICLE VII. FALSE ALARMS**

### **Sec. 58-216. Declaration of intent.**

The primary purpose of this article is to reduce the incidents of false burglar, holdup and fire alarms which are preventable or avoidable. This article is also intended to encourage the installation of reliable alarm systems and to ensure that they are well-maintained and reliably used. The installation of properly functioning systems, used responsibly, should reduce the number of false alarms and reduce the danger to both officers and the public by minimizing the number of times the officers respond in an emergency manner to these false alarms.

(Ord. No. OR98-09, § I(9.28(1)), 3-9-1998)

### **Sec. 58-217. Definitions.**

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

*Alarm system* means an assembly of equipment and/or devices arranged and intended to signal the presence of a hazard or situation requiring urgent attention and to which the police department or the county sheriff's department is expected to respond. The term "alarm system" shall include the terms "holdup alarm," "burglar alarm system," "automatic holdup system," "manual holdup system," "direct line system," "proprietary system," "local alarm system," "central station system," "answering service" and "fire alarm."

*Alarm user* means any person on whose premises, commercial or residential, an alarm system is maintained within the city. Excluded are alarm systems on motor vehicles unless they are connected to an alarm system at a premises.

*Annunciation* means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, shows when an alarm device at a particular location has been activated or which may indicate line trouble.

*Answering service* means a telephone answering service providing the service of receiving, on a continuous basis through employees, emergency signals from an alarm system and, thereafter, which is expected to immediately relay the message of the emergency signal (alarm) by live voice to the communication center of the county sheriff's office or the city police department.

*Automatic dialing device* means an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation the alarm device is designed to detect.

*Automatic holdup alarm system* means an alarm system in which the signal transmission is initiated by the action of the robber.

*Burglar alarm system* means an alarm system signaling an entry or attempted entry into the area protected by the system.

*Calendar year* means 12:01 a.m. on January 1 to midnight on December 31.

*Central station system* means a system in which the operation of electrical protection circuits and devices are signaled automatically to, recorded in, maintained, and supervised from, a central station having trained operators in attendance at all times.

*Direct line system* means a telephone line leading directly from a central station to the communications center of the county sheriff's office or the city police department used only to report emergency signal information on a person-to-person basis.

*False alarm* means any of the following:

- (1) The activation of an alarm system through negligence of the owner, alarm user,

or lessee of an alarm system or of his or her employees or agents.

- (2) The activation of an alarm system through mechanical failure or malfunction because of improper maintenance by the alarm user, owner, lessee, or his or her employees or agents.
- (3) The activation of an alarm system because of improper installation by the alarm user, owner, or lessee, or their employees or agents or the company which installed the system.
- (4) The negligence or improper use of the equipment by the alarm user, owner, lessee, or employee.

False alarm does not include those alarms caused by hurricanes, tornadoes, earthquakes, other violent conditions, or intentionally giving a false alarm as listed in Wis. Stats. § 941.13.

*Fire alarm* means an alarm system signaling that a fire is occurring at an area protected by the system.

*Holdup alarm* means an alarm system signaling a robbery or attempted robbery.

*Local alarm system* means a signaling system which, when activated, causes an audible and/or visual signaling device to be activated in or on the premises the alarm was intended to protect. If the system as designed and intended to attract the attention of people outside of the building, it shall come under the definition of alarm system.

*Manual holdup alarm* means an alarm system in which the signal transmission is initiated by the direct action of the person or persons attacked or by an observer of an attack.

*Proprietary system* means an alarm system sounding or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor, or an employee, of the protected premises. If a proprietary system includes a signal line connected directly, by means of an automatic dialing device, to the alarm panel at the county sheriff's department, city police department, a central station, or answering service, it thereby becomes an alarm system as defined in this article. The system is also included if the control center receives the alarm signal and, by voice communication via telephone line or by activation of an alarm signal connected to the county sheriff's department or the city police department, indicates the existence of the alarm (i.e., the control center receives an indication of a fire and they telephone the county dispatcher or the city police department that they have an indication of a fire or they trip an alarm that sends a signal to an annunciation in the alarm panel).

(Ord. No. OR98-09, § I(9.28(2)), 3-9-1998)

**Cross references:** Definitions generally, § 1-2.

### **Sec. 58-218. Penalties.**

- (a) The owner, alarm user, or lessee of any alarm system shall be allowed three false alarms in a calendar year with no penalty. After the second false alarm, a letter will be sent by the police department to the person indicated as the alarm user informing them of the penalties for the fourth and subsequent offenses. A citation will be issued for fourth or subsequent offenses.

- (1) A forfeiture of \$50.00 shall be assessed, plus court costs, to the alarm user, owner or lessee for a fourth offense.
  - (2) For fifth and subsequent offenses, a forfeiture of \$100.00, plus court costs, shall be assessed against the alarm user, owner or lessee.
- (b) Failure to provide information concerning section 58-219 shall result in the following:
- (1) Upon a first offense of the information not having been provided, the alarm user, owner or lessee shall be sent a letter by the police department informing the alarm user of the provisions of this article.
  - (2) Thirty days after having been notified of the existence of this article and being given a warning for the first offense, for any second and subsequent offense a citation shall be issued which shall result in a \$50.00 forfeiture, plus court costs.

(Ord. No. OR98-09, § I(9.28(4)), 3-9-1998)

### **Sec. 58-219. Requirements.**

- (a) Any person having an alarm installed on any business or residence who comes under the definition of alarm user shall, within 30 days of the alarm system becoming fully functional, notify the police department of the following:
  - (1) The existence of the alarm and type (i.e., burglary, fire, etc.).
  - (2) The name of the alarm company installing and responsible for the maintenance of the alarm system and its phone number.
  - (3) The name of the alarm user and the phone number of two people who can be contacted and will respond to the scene of the alarm to assist officers in checking property. The alarm owner, user or lessee shall also notify the police department.
  - (4) The person on whose premises the alarm system is installed shall contact the police department and advise them of who shall be considered the person primarily responsible for the system.
- (b) No type of automatic dialing device or other alarm system shall be permitted to be directly connected by any means to the 911 emergency number system except those lines which are directly connected to annunciators on the alarm panel.
- (c) Alarms connected to the annunciators on the alarm panel at the county sheriff's office or the city police department shall be done via a dedicated telephone line and all costs shall be borne by the alarm user, owner or lessee.
- (d) No alarm system designed to transmit emergency messages directly to the county sheriff's department or the city police department shall be tested or demonstrated without first notifying the county sheriff's department communications center and the city police department.

(Ord. No. OR98-09, § I(9.28(3)), 3-9-1998)

**Sec. 58-220. Cooperation of alarm user, owner or lessee.**

- (a) Before an officer can consummate his investigation of an alarm activation, it is necessary for the officer to have the cooperation of the alarm user, owner, lessee, or one of their named contact persons as required by section 58-219(a)(3). The presence of the alarm user, owner, lessee or one of their named contact persons is needed at the scene of the alarm activation to let the officer into locked premises and to provide the officer with details as to any missing/damaged property. In the past, officers have notified alarm users, owners, or lessees as to the alarm activation, but same, on occasion, have refused to appear at the scene. The result is an officer making additional trips to the premises to complete his investigation.
- (b) If the city police department or county sheriff's department notifies an alarm user, owner or lessee, or one of their named contact persons as to the activation of their alarm the user, owner, lessee or contact person fails to appear at the scene within 45 minutes after the city police department or county sheriff's department notifies the person of the alarm activation, the alarm user, owner or lessee shall be responsible for paying the costs of the officer in making an additional trip or trips to the scene, such costs amounting to the sum of \$75.00 per trip. The sum shall be paid by the alarm user, owner or lessee within ten days of receiving a bill from the city police department for the above costs. The owner, user or contact person shall be responsible for paying same regardless of whether or not the alarm was false.

(Ord. No. OR98-09, § I(9.28(5)), 3-9-1998)