

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 Town of Waukesha provided 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.

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CHAPTER 2

Offenses Against Public Safety and Peace

11-2-1	Discharge of Firearms
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11-2-3	Loitering Prohibited
11-2-4	Disorderly Conduct
11-2-5	Obscenity
11-2-6	Smoking Prohibited
11-2-7	Drug Paraphernalia
11-2-8	Establishing Curfews for Minors
11-2-9	Shooting of Arrows, Stones, or Other Missiles
11-2-10	Residency Restrictions for Sex Offenders

SEC 11-2-1 DISCHARGE OF FIREARMS.

- (a) **Prohibited Use.** No center-fire rifle may be fired or discharged by any person within the Town of Waukesha.

SEC. 11-2-2 SALE AND DISCHARGE OF FIREWORKS RESTRICTED. (See Section 7-5-1)

No person shall use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Town of Waukesha unless he shall be authorized by a fireworks permit as provided in Title 7 of this Code of Ordinances. The term “fireworks” as used in this Section shall be defined as provided in Sec. 167.10(1), Wis. Stats., and shall be deemed to include all rockets or similar missiles containing explosive fuel.

SEC. 11-2-3 LOITERING PROHIBITED.

- (a) **General Regulation of Loitering or Prowling.** 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 law enforcement 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/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement 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 law enforcement officer at the time, would have dispelled the alarm.

(b) **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, Recycling Center, Town Hall, or Public Works 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.

(c) **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.
- (2) Upon being requested to move by any such person in authority or by any law enforcement officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(d) **Loitering or Prowling Prohibited.** 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 law enforcement officer, refuses to identify himself/herself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement 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 law enforcement 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 law enforcement officer at the time, would have dispelled the alarm.

(e) **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 Permitted. 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.

(f) **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 Town of Waukesha.
- (3) Prowl. To move or roam about furtively, particularly on the property of another person.

SEC. 11-2-4 DISORDERLY CONDUCT.

- (a) **Disorderly Conduct Prohibited.** No person within the Town of Waukesha 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 other than a bona fide athletic contest.
- (b) **Disorderly Conduct With Motor Vehicle.** No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.
- (c) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Town, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings, or to indecently expose his/her person.

SEC. 11-2-5 OBSCENITY.

- (a) **Distribution of Obscene Material Prohibited.** It shall be unlawful for any person to send or cause to be sent, bring or cause to be brought into the Town of Waukesha, for sale or distribution, or for any person in the Town of Waukesha to prepare, publish, print, exhibit, distribute or offer to distribute, or have in his possession with intent to distribute or to exhibit or offer to distribute, any material that such person knows to be “obscene” as hereinafter defined.
- (b) **Definitions.**
 - (1) The word “obscene” shall apply to any work or material that depicts or describes acts of sexual intercourse between humans, normal or perverted, actual or simulated; acts of masturbation; fellatio; cunnilingus; acts of a sexually stimulated condition; and sexual relations between humans and animals, any of which taken as a whole by the average person applying contemporary community standards would be found to:
 - a. Appeal to the prurient interest in sex; and
 - b. Portray sexual conduct in a patently offensive way; and which, taken as a whole by the average person applying contemporary national standards, would be found not to have serious literary, artistic, political or scientific value.
 - (2) The word “material” or “work” shall mean any book, magazine, newspaper, or other printed or written material, or any picture, drawing, photograph, motion picture, video tape, or other pictorial representation.
 - (3) The word “person” shall mean any individual, partnership, firm, association, corporation or other legal entity.
 - (4) The word “distribute” shall mean any transfer or possession with intent to transfer, whether with or without consideration.
 - (5) The word “know” shall mean being aware, or having reason to be aware, of the nature of the materials alleged to be obscene.

SEC. 11-2-6 SMOKING PROHIBITED.

- (a) **Definition.** As used in this Section, the term “smoking” shall mean carrying a lighted cigar, cigarette, pipe or other lighted smoking equipment.
- (b) **Regulation of Smoking.** No person shall smoke in any enclosed, indoor area of any Town building.
- (c) **Educational Facilities.** Possession, smoking, and/or use of tobacco products is prohibited in all educational facilities, as that term is defined in Wis. Stat. Section 101.123(1)(a), as well as all ground on which any educational facility is located. As used herein, the term "smoking" shall mean possession of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment. As used herein, the term "possession of tobacco products" shall mean that a person has dominion or control over any tobacco product as provided in Wis. Stat. Section 48.983.

SEC. 11-2-7 DRUG PARAPHERNALIA.

- (a) **Definition.** The term “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, 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 161, 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) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - (3) Testing equipment use, intended for use, or designed for use in identifying or analyzing the strength, effectiveness, or purity of controlled substances.
 - (4) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - (5) Diluents and adulterants, such as quinine hydrochloride mannitol, mannite, dextrose, and lactose used, intended for use, or designed for use in cutting controlled substances.
 - (6) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from and otherwise cleaning or refining marijuana.
 - (7) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.
 - (8) Capsules, balloons, envelopes, or other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
 - (9) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
 - (10) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
 - (11) 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 pipe.
 - c. Carburetion tubes and devices.

- d. Smoking and carburetion masks.
- e. Roach clips: meaning 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. Carburetor pipes.
- h. Electric pipes.
- i. Air-driven pipes.
- j. Chillums.
- k. Bongs.
- l. Ice pipes or chillers.

(b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered in addition to all other logically relevant factors:

- (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 Town, 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 substances on the object.
- (6) Direct or circumstantial evidence of the intent of an 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 the object as to a direct violation of this Section should not prevent the 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) Direct 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) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
- (12) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
- (13) The existence and scope of legitimate uses for the object in the community.
- (14) Expert testimony concerning its use.

(c) **Prohibited Activities.**

- (1) Possession of Drug Paraphernalia. No person may use or possess with 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 in violation of this Section.
- (2) Manufacture Sale or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia knowing that it will be 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 in violation of this Section.
- (3) Delivery of Drug Paraphernalia to a Minor. Any person eighteen (18) years of age or older who violates Subsection (b) by delivering drug paraphernalia to a person under eighteen (18) years of age is guilty of a special offense.

- (4) Advertisement of Drug Paraphernalia. No person may place in a newspaper, magazine, handbill, or other publication any advertisement knowing that the purpose of the advertisement in whole or in part is to promote the sale of objects designed or intended for use as drug paraphernalia.
 - (5) Exemption. This Subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This Section does not prohibit the possession, manufacture, or use of hypodermics in accordance with Chapter 161, Wis. Stats.
- (d) **Penalties.**
- (1) Any drug paraphernalia used in violation of this Section shall be seized and forfeited to the Town.
 - (2) Any person who violates Subsections (c)(1), (2) or (4) shall upon conviction be subject to a forfeiture of not more than Five Hundred Dollars (\$500.00) together with the costs of prosecution and upon default of payment be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed twenty (20) days.
 - (3) Any person who violates (c)(3) shall upon conviction be subject to a forfeiture of One Thousand Dollars (\$1,000.00) together with the costs of prosecution and upon default of payment, be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed forty (40) days.

SEC. 11-2-8 ESTABLISHING CURFEWS FOR MINORS.

- (a) **Curfew Restrictions.**
- (1) It shall be unlawful for any person under the age of 17 to congregate, loiter, wander, stroll, stand, or play in, or upon, the public streets, highways, roads, alleys, parks, public buildings, places of amusement and entertainment, places of employment, vacant lots, or any public places in the Town of Waukesha, either on foot or in, or upon, any conveyance being driven or parked thereon, between the hours of 11:00 p.m. and 5:00 a.m. of the following day, Sunday through Thursday, and between 12:00 a.m. and 5:00 a.m. Friday and Saturday, unless accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.
- (b) **Exceptions.** This section shall not apply to a person under 17 years of age:
- (1) Who is returning home from a supervised school, church or civic function;
 - (2) Whose employment makes it necessary to be upon the streets, alleys, public places, or any motor vehicle after such hour.
- (c) **Responsibility of Parents.** It shall be unlawful for the parent, guardian, or other adult person having the care and custody of a person under the age of 17 years to permit, or by inefficient control to allow, such person to violate the provisions of sub (a) above. Any parent, guardian, or other adult person herein who shall have made a missing person notification to the Police Department shall not be considered to have suffered or permitted any person to be in violation of this section.
- (d) **Responsibility of Operators.** It shall be unlawful for any person, firm, or corporation operating places of amusement or entertainment, or any agent, servant, or employee of any person, firm, or corporation to permit any person under the age of 17 years to enter or remain in such places of amusement or entertainment during the hours prohibited under this section, unless such person is accompanied by his or her parent, guardian, or other adult person having his or her care, custody, or control.

- (e) **Responsibility of Hotel, Etc.** It shall be unlawful for any person, firm, or corporation operating a hotel, motel, lodging, or rooming house, or any agent or servant or employee of such person, firm, or corporation operating a hotel, motel, lodging, or rooming house, to permit any person under the age of 17 years to visit, loiter, idle, wander, or stroll in any portion of such hotel, motel, lodging, or rooming house during the hours prohibited under this section; provided, however, that the provisions of this section do not apply when the minor is accompanied by his or her parent, guardian, or other adult person having the care, custody, and control of such minor.
- (f) **Detaining a Minor.** A minor believed to be violating the provisions of this ordinance may be taken to the Police Department for proper identification and may be detained for violating the provisions of this ordinance until such time as a parent, guardian, or other adult person having legal custody of the minor is immediately notified and the person so notified, as soon as reasonably possible, reports to the Police Department to take the minor into custody and signs a release for the minor.
- (g) **Penalties.** Any person, firm, or corporation violating this section shall be subject to a forfeiture of not less than \$55.00 nor more than \$110.00, together with Court costs and assessments.
- (h) **Severability.** If any provision, including any exception, part, phrase, or term, or the application thereof to any person or circumstance, is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of this ordinance, in any and all other respects, shall not be affected thereby.

SEC. 11-2-9 SHOOTING OF ARROWS, STONES, OR OTHER MISSILES.

(a) **Prohibited Use.**

- (1) Throwing or shooting of arrows, stones, and other missiles prohibited. No person shall throw or shoot any object, arrow, stone, snowball, or other missile or projectile by hand, or by any other means, at any person, or at, in, or into any building, street, sidewalk, alley, highway, park, playground, vehicle, or other public place within the Town.

(b) **Permitted Use.**

- (1) A person may shoot a bow and arrow on private property for the purpose of target practice, but only if the following requirements are met:
 - a. Only field tips or target tips may be attached to an arrow used for target practice on private property. Brodhead hunting tips including, but not limited to, razor tips, may not be attached to an arrow used for target practice.
 - b. Material must be attached to the back of any target that will prevent an arrow from completely passing through it.
 - c. The target must be placed so that arrows missing the target will not enter neighboring properties, or a building on the property may serve as a backstop.
 - d. An adult must be physically present and supervising any person under the age of 16 while that person is target practicing with a bow and arrow.
- (2) Notwithstanding anything contained herein to the contrary, this ordinance shall not prohibit or restrict any person from using a bow and arrow for hunting, provided that the person has obtained all required hunting licenses and is hunting in accordance with the regulations governing the issuance and use of those licenses.

SEC. 11-2-10 SEX OFFENDER RESIDING WITHIN 2,000 FEET OF SCHOOLS, DAYCARE CENTERS, PARKS AND OTHER SPECIFIED FACILITIES AND USES PROHIBITED; CHILD SAFETY ZONES

(a) **Purpose.** This Ordinance is a regulatory measure intended to protect the health and safety of children in Town of Waukesha from the risk that convicted sex offenders may reoffend in locations close to their residences. The Town finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-crested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools, day-care centers and other places children frequent. The Town finds and declares that in addition to schools and day-care centers, children congregate or play at public parks.

(b) **Definitions.** As used in this Chapter and unless the context otherwise requires:

- (1) A "sexually violent offense" shall have the meaning as set forth in Wis. Stat. § 980.01(6), as amended from time to time.
- (2) A "crime against children" shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

- §940.225(1) First Degree Sexual Assault;
- §940.225 (2) Second Degree Sexual Assault;
- §940.225 (3) Third Degree Sexual Assault;
- §940.22(2) Sexual Exploitation by Therapist;
- §940.30 False Imprisonment-victim was minor and not the offender's child;
- §940.31 Kidnapping-victim was minor and not the offender's child;
- §944.01 Rape (prior statute);
- §944.06 Incest;
- §944.10 Sexual Intercourse with a Child (prior statute);
- §944.11 Indecent Behavior with a Child (prior statute);
- §944.12 Enticing Child for Immoral Purposes (prior statute);
- §948.02(1) First Degree Sexual Assault of a Child;
- §948.02(2) Second Degree Sexual Assault of a Child;
- §948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child;
- §948.05 Sexual Exploitation of a Child;
- §948.055 Causing a Child to View or Listen to Sexual Activity;
- §948.06 Incest with a Child;
- §948.07 Child Enticement;
- §948.075 Use of a Computer to Facilitate a Child Sex Crime;
- §948.08 Soliciting a Child for Prostitution;
- §948.095 Sexual Assault of a Student by School Instructional Staff;
- §948.11(2)(a) or (am) Exposing Child to Harmful Material-felony sections;
- §948.12 Possession of Child Pornography;
- §948.13 Convicted Child Sex Offender Working with Children;
- §948.30 Abduction of Another's Child;
- §971.17 Not Guilty by Reason of Mental Disease-of an included offense; and
- §975.06 Sex Crimes Law Commitment.

- (3) "Person" means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a sexually violent offense and/or a crime against children,
 - (4) "Residence" ("reside") means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.
- (c) **Residency restrictions.** A person shall not reside within two thousand feet of the real property comprising any of the following:
- (1) Any facility for children (which means a public or private school, a group home, as defined in §48.02 (7), Stats., a residential care center for children and youth, as defined in §48.02 (15d), Stats., a shelter care facility, as defined in §48.02 (17), Stats., a foster home, as defined in §48.02 (6), Stats., a treatment foster home, as defined in §48.02 (17q), Stats., a day care center licensed under §48.65, Stats., a day care program established under §120.13 (14), Stats., a day care provider certified under §48.651, Stats., or a youth center, as defined in §961.01 (22), Stats.;) and/or
 - (2) Any facility used for:
 - a. a public park, parkway, parkland, park facility;
 - b. a public swimming pool;
 - c. a public library;
 - d. a recreational trail;
 - e. a public playground;
 - f. a school for children;
 - g. athletic fields used by children;
 - h. a movie theatre;
 - i. a daycare center;
 - j. any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
 - k. a public or private golf course or range; and
 - l. aquatic facilities open to the public;
 - m. a private recreational facility designed or operated for the purpose of providing recreational activities primarily for children under 12 years of age.

The distance shall be measured from the closest boundary line of the real property supporting the residence of a person to the closest real property boundary line of the applicable above enumerated use(s).

A map depicting the above enumerated uses and the resulting residency restriction distances, as amended from, time to time, shall be approved by resolution adopted by the Town Board, and shall be maintained on file in the Office of the Town Clerk for public inspection. In determining the residency restriction distances, the Town Board may include those enumerated uses located outside the Town boundaries, but within 2000 feet of the Town boundary.

- (d) **Residency restriction exceptions.** A person residing within two thousand feet of the real property comprising any of the uses enumerated in § (c) above, does not commit a violation of this Ordinance if any of the following apply:

- (1) The person is required to serve a sentence at a jail, prison, juvenile facility, or other correctional institution or facility.
 - (2) The person has established a residence prior to the effective date of this Ordinance, which is within two thousand feet of any of the uses enumerated in § (c) above, or such enumerated use is newly established after such effective date and it is located within such two thousand feet of a residence of a person which was established prior to the effective date of this Ordinance.
 - (3) The person is a minor or ward under guardianship.
- (e) **Original domicile restriction.** In addition to and notwithstanding the foregoing, but subject to § (d) above, no person and no individual who has been convicted of a sexually violent offense and/or a crime against children, shall be permitted to reside in the Town of Waukesha, unless such person was domiciled in the Town of Waukesha at the time of the offense resulting in the person's most recent conviction for committing the sexually violent offense and/or crime against children.
- (f) **Child safety zones.** No person shall enter or be present upon any real property upon which there exists any facility in the Town used for or which supports a use of:
- a. a public park, parkway, parkland, park facility;
 - b. a public swimming pool;
 - c. a public library;
 - d. a recreational trail;
 - e. a public playground;
 - f. a school for children;
 - g. athletic fields used by children;
 - h. a movie theatre;
 - i. a daycare center;
 - j. any specialized school for children, including, but not limited to a gymnastics academy, dance academy or music school;
 - k. a public or private golf course or range;
 - l. aquatic facilities open to the public; and
 - m. a private recreational facility designed or operated for the purpose of providing recreational activities primarily for children under 12 years of age.
 - n. any facility for children (which means a public or private school, a group home, as defined in §48.02 (7), Stats., a residential care center for children and youth, as defined in §48.02 (15d), Stats., a shelter care facility, as defined in §48.02 (17), Stats., a foster home, as defined in §48.02 (6), Stats., a treatment foster home, as defined in §48.02 (17q), Stats., a day care center licensed under §48.65, Stats., a day care program established under §120.13 (14), Stats., a day care provider certified under §48.651, Stats., or a youth center, as defined in §961.01 (22), Stats.)

A map depicting the locations of the real property in the Town of Waukesha supporting the above enumerated uses, as amended from time to time, shall be approved by resolution adopted by the Town Board, and shall be maintained on file in the Office of the Town Clerk for public inspection.

- (g) **Child safety zone exceptions.** A person does not commit a violation of § (f) above and the enumerated uses may allow such person on the property supporting such use if any of the following apply:
- (1) The property supporting an enumerated use under § (f) also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
 - a. Entrance and presence upon the property occurs only during hours of worship or other religious program/service as posted to the public; and
 - b. Written advance notice is made from the person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the person; and
 - c. The person shall not participate in any religious education programs which include individuals under the age of 18.
 - (2) The property supporting an enumerated use under § (f) also supports a use lawfully attended by a person's natural or adopted child(ren), which child's use reasonably requires the attendance of the person as the child's parent upon the property, subject to the following conditions:
 - a. Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
 - b. Written advance notice is made from the person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the person.
 - (3) The property supporting an enumerated use under § (f) also supports a polling location in a local, state or federal election, subject to the following conditions:
 - a. The person is eligible to vote;
 - b. The designated polling place for the person is an enumerated use; and
 - c. The person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the person vacates the property immediately after voting.
 - (4) The property supporting an enumerated use under § (f) also supports an elementary or secondary school lawfully attended by a person as a student, under which circumstances the person who is a student may enter upon that property supporting the school at which the person is enrolled, as is reasonably required for the educational purposes of the school.
- (h) **Violations.** If a person violates any of the above, by establishing a residence or occupying residential premises within two thousand feet of those premises as described therein, without any exception(s) as also set forth above, the Town Attorney, upon referral from the Sheriff's Department and the written determination by the Sheriff's Department that upon all of the facts and circumstances and the Purpose of this Ordinance, such residence occupancy presents an

Sec. 11-2-10 Offenses Against Public Safety and Peace

activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the Town in the Circuit Court for Waukesha County to permanently enjoin such residency as a public nuisance. If a person violates any of the above, in addition to the aforesaid injunctive relief, such person shall be subject to the general penalty provisions set forth under § Title 1-1-6 of the Town Code. Each day a violation continues shall constitute a separate offense. In addition, the Town may undertake all other legal and equitable remedies to prevent or remove a violation of this Ordinance."

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	Trespass
11-3-5	Damage to Public Property
11-3-6	Cemetery Regulations
11-3-7	Penalties

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

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the Town of Waukesha and belonging to the Town or its departments, or to any private person, without the consent of the owner or proper authority.
- (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).

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, public right-of-ways, or other property of the Town, or upon any private person or the surface of any body of water within the Town.
- (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) Cleanup of Litter. 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 twenty-four (24) hours of the time the same is deposited or immediately if such litter or debris presents a traffic or safety hazard. 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 Town shall arrange to have the same picked up by Town crews or by private enterprise. Applicable bidding procedures shall be used for any arrangement for the use of private enterprise to pick up such litter. The entire expense of picking up such litter, together with an additional charge of 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 Town 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) **Dumping of Refuse and Grass Along Roads.** Except for temporary placement up to six (6) hours, no person shall deposit any refuse, leaves or grass clippings in any gutter along any public street, road, alley, public right-of-way or highway.
- (d) **Depositing of Materials Prohibited.** Except as provided in Subsection (c), it shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, 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 Town Board, or its designee, pursuant 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.
- (e) **Handbills.**
 - (1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the Town 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.
 - (3) Advertisements Upon Public or Private Property. No person shall place any advertisement upon any public property or any street, alley or public ground or upon any private property situated and fixed in any street, alley or public ground or upon any other private property, except by the permission of the owner thereof, but this Section shall not apply to the posting of notices required by law.

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 freezer, 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 TRESPASS.

- (a) **Purpose.** This Section is created for the purposes of securing to the residents of the Town of Waukesha their rights to enjoyment and use of land and property by providing an efficient and orderly method of enforcement of such rights. This ordinance is enacted under the authority of sections of the Wisconsin Statutes and acts amendatory thereto.
- (b) **Short Title.** This Section may be referred to and cited as the Town of Waukesha Trespass Ordinance.

- (c) **Violations.** It shall be unlawful and a violation of this Section for any person to commit any of the following acts:
- (1) Enter upon any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any such activities.
 - (2) To enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.
 - (3) To hunt, shoot, fish, or gather any product of the soil on the premises of another, or enter said premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.
 - (4) To enter upon any enclosed or cultivated land or another with a vehicle of any kind without the express or implied consent of the owner or occupant.
 - (5) To erect upon the land of another any sign which is the same as or similar to the type of sign described in Subsection (d), unless authorized to do so by the owner of the lands involved.
- (d) **Posting of Lands.** For lands to be posted against entry by another under this Section, a sign at least eleven (11) inches square must be placed in at least two (2) conspicuous places for every forty (40) acres sought to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the word "owner" if the person giving the notice is the holder of legal title to the land and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within six (6) months prior to the event complained of shall be prima facie proof that the premises to be protected were posted as herein provided.
- (e) **How Entry Denied.** A person has received notice from the owner or occupant within the meaning of this Section if he has been notified personally, either orally or in writing, or if the land is posted.
- (f) **Failure to Post.** The failure of any person or occupant to post his or her lands shall not be deemed to constitute consent of such owner or occupant to any uninvited entry by another. Any entry by a person other than the lawful owner or lawful occupant of land or building shall constitute a violation of this ordinance if such entry is made under circumstances tending to create or provoke breach of the peace.

SEC. 11-3-5 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 Town.
- (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 Town.

SEC. 11-3-6 CEMETERY REGULATIONS.

- (a) **Purpose and Definition.** In order to protect cemetery areas within the Town 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 Town of Waukesha.
- (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.
 - (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, are prohibited in any cemetery without the cemetery owner’s consent.
 - (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 under these regulations. 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 Town 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. 11-3-7 PENALTIES.

In addition to the general penalty of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Chapter, 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 minor child 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 law enforcement officers from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

CHAPTER 4

Offenses Involving Alcoholic Beverages

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

SEC. 11-4-1 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, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
- (2) No licensee or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

(b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:

- (1) Not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or
- (2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.
- (3) In addition to the forfeitures provided in Subsections (1) and (2) above, a court shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Sec. 125.07(1)(b)3, Wis. Stats.

(c) **Sale of Alcohol Beverages to Intoxicated Persons.**

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

(d) **Penalties.** Any person who violates Subsection (c) 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: Sec. 125.07, Wis. Stats.

SEC. 11-4-2 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 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 paragraph does not apply to:
- (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
 - (2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than 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, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d. Wis. Stats., which are owned by a county or municipality.
 - (4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
 - (5) Ski chalets, golf clubhouses and private tennis clubs.
 - (6) Premises operated under both a Class "B" alcoholic beverage or "Class B" fermented malt beverage 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" alcoholic beverage or "Class B" fermented malt beverage 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) An underage person who enters or remains on a Class "B" alcoholic beverage or "Class B" fermented malt beverage premises for the purpose of transacting business at an auction or market as defined in Sec. 125.32(4)(b)1, Wis. Stats., if the person does not enter or remain in a room where alcohol beverages are sold or furnished.
 - (8) An underage person who enters or remains in a room on Class "B" alcoholic beverage or "Class B" fermented malt beverage licensed premises separate from any room where alcohol beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons 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" alcoholic beverage or "Class B" fermented malt beverage premises under this Subsection only if the municipality which issued the Class "B" alcoholic beverage or "Class B" fermented malt beverage license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" alcoholic beverage or "Class B" fermented malt beverage 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 law enforcement agency 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 community. The licensee shall obtain a separate authorization for each date on which underage persons will be present 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) is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

SEC. 11-4-3 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.

- (a) Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages.
 - (2) Knowingly possesses or consumes intoxicating liquor.
 - (3) Enters or is on licensed premises in violation of Section 11-4-2(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee
- (b) 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) Any person violating Subsections (a) or (b) is subject to the following penalties:
- (1) For a first violation, a forfeiture of not more than Fifty Dollars (\$50.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred Dollars (\$100.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty Dollars (\$150.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- (d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Town Board. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
- (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.
- (e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

- (f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 48.344, 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. 48.344(3), Wis. Stats.
- (g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.
- (h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

SEC. 11-4-4 DEFENSE OF SELLERS.

- (a) **Defenses.** Proof 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 in writing and supported with other documentary proof 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.
- (b) **Book Kept by Licensees and Permittees.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this Subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

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

**SEC. 11-4-5 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, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned not less than ten (10) days nor more than thirty (30) days or both.
 - (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 Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not more than ten (10) days or both.
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-3(c) or (d):

- (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. 11-4-6 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. 48.344, Wis. Stats., and Section 11-4-3(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

SEC. 11-4-7 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 11-4-3(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. 11-4-8 SOLICITATION OF DRINKS PROHIBITED.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the Town who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Section 125.02(1) of the Wisconsin Statutes, 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

Public Nuisances

11-5-1	Public Nuisances Prohibited
11-5-2	Public Nuisances Defined
11-5-3	Public Nuisances Affecting Health
11-5-4	Public Nuisances Offending Morals and Decency
11-5-5	Public Nuisances Affecting Peace and Safety
11-5-6	Abatement of Public Nuisances
11-5-7	Cost of Abatement

SEC. 11-5-1 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Town of Waukesha, Waukesha County, Wisconsin.

SEC. 11-5-2 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 11-5-3 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 11-5-2:

- (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 (other than composting sites), trash, rubbish, rotting lumber, bedding, packing material, scrap metal, tires 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 or private well or cistern, stream, lake, canal or other body of water or ground water by sewage, creamery or other wastes or substances.
- (h) **Noxious Odors, Etc.** Any use of property, substances or things within the Town or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches 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 Town, other than livestock manure.
- (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 Town.
- (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. 11-5-4 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, other than state authorized programs.
- (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 in the ordinances of the Town.
- (d) **Continuous Violation of Town Ordinances.** Any place or premises within the Town where Town 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 Town.

SEC. 11-5-5 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 11-5-2:

- (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 Town relating to materials and manner of construction of buildings and structures within the Town.

- (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 or ditch area of the right-of-way 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 Town.
- (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 Town.
- (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 Town 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 Town 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.
- (p) **Noise.** No person shall disturb the peace and quiet of any other ordinary person by creating excessively loud or unreasonable noise or similar disturbances. Prohibited loud and/or unreasonable noise shall include, but not be limited to:
 - (1) Playing of radios, television sets, musical instruments, or other electronic or mechanical devices so as to offend the sensibilities of an ordinary person.
 - (2) Barking or howling of dogs or cats.
 - (3) Vehicles without mufflers, or the unnecessary use of horns, or similar warning devices, on any motor vehicle.
 - (4) Engine Compression Brakes Prohibited.
 - (a) No person shall, on STH 164 from Townline Road north to STH 59/164, use motor vehicle brakes which are in any way activated or operated by the compression of the engine of any motor vehicle.
 - (b) It shall be an affirmative defense to prosecution under this section that the compression brakes were applied in an emergency and were necessary to prevent immediate danger to life or property.
 - (c) The terms of this ordinance shall not apply to any "authorized Emergency Vehicle" as that term is defined in Section 340.01(3) of the Wisconsin Statutes.
 - (5) Any activity which creates or emits a noise or sound which would offend the sensibilities of an ordinary person.

SEC. 11-5-6 ABATEMENT OF PUBLIC NUISANCES.

- (a) **Enforcement.** The Town Board, Constable, Fire Inspector, Building Inspector and law enforcement officers 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 this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.
- (b) **Summary Abatement.** If the inspecting officer shall determine that a public nuisance exists within the Town and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Town Board, upon the recommendation of the appropriate department head, may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
- (c) **Abatement After Notice.** If the inspecting officer shall determine that public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection (b).
- (d) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Town or its officials in accordance with the laws of the State of Wisconsin.

SEC. 11-5-7 COST OF ABATEMENT.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Town shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.