

**TITLE 11**

Offenses and Nuisances

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**CHAPTER 1**

State Statutes Adopted

**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 City 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.

- |      |                |   |
|------|----------------|---|
| (1)  | 29.601(3)(a)   | Deleterious substances.   |
| (2)  | 101.123        | Smoking prohibited.   |
| (3)  | 167.10         | Fireworks regulated.  |
| (4)  | 175.25         | Storage of junked vehicles.   |
| (5)  | 254.76(1)      | Causing fires by tobacco smoking.                                     |
| (6)  | 287.81(2)      | Littering.  |
| (7)  | 939.05(2)(b)   | Aiding and abetting.  |
| (8)  | 939.22         | Words and phrases defined – Crimes – General Provisions.              |
| (9)  | 940.19(1)      | Battery.  |
| (10) | 940.291        | Failure of a police officer to render aid.                            |
| (11) | 941.10         | Negligent handling of burning materials.                              |
| (12) | 941.12(2), (3) | Interfering with fire fighting.                                       |
| (13) | 941.13         | False Alarms and interference with firefighting.                      |
| (14) | 941.20(1)      | Endangering safety by use of dangerous weapon.                        |
| (15) | 941.23         | Carrying concealed weapon.  |
| (16) | 941.235        | Carrying a firearm in a public building.                              |
| (17) | 941.24         | Possession of switchblade knife.                                      |
| (18) | 941.35         | Emergency telephone calls.  |
| (19) | 941.36         | Fraudulent tapping of electric wires or gas or water meters or pipes. |

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(20)	941.37(1), (2)	Obstructing emergency or rescue personnel.
(21)	942.05	Opening letters.
(22)	943.01(1)	Criminal damage to property.
(23)	943.11	Entry into locked vehicle.
(24)	943.125	Entry into locked coin box.
(25)	943.13	Trespass to land.
(26)	943.14	Criminal trespass to dwellings.
(27)	943.145	Criminal trespass to a medical facility.
(28)	943.15	Entry onto a construction site or into a locked building, dwelling or room.
(29)	943.20	Theft of property.
(30)	943.21(3)	Fraud on hotel keeper, recreational attraction, taxicab operator, or gas station.
(31)	943.22	Cheating tokens.
(32)	943.23(2)	Operating vehicle without owner's consent.
(33)	943.24(1)	Worthless checks.
(34)	943.34(1)	Receiving stolen property.
(35)	943.37	Alteration of property identification marks.
(36)	943.38(3)	Forgery.
(37)	943.41	Financial transaction card crimes.
(38)	943.50(4)(a)	Retail theft.
(39)	943.55	Removal of shopping cart.
(40)	944.17	Sexual gratification.
(41)	944.20	Lewd and lascivious behavior.
(42)	944.21	Obscene material or performance.
(43)	944.23	Making lewd, obscene or indecent drawings.
(44)	944.30	Prostitution.
(45)	944.31	Patronizing prostitutes.
(46)	944.33	Pandering.
(47)	945.01	Definitions relating to gambling.
(48)	945.02	Gambling.
(49)	945.04	Permitting premises to be used for commercial gambling.
(50)	946.40	Refusing to aid officer.
(51)	946.41	Resisting or obstructing officer.
(52)	946.42(2)	Escape.
(53)	946.69	Falsely assuming to act as public officer or employee or utility employee.
(54)	946.70	Impersonating peace officers.
(55)	946.72(2)	Tampering with public records and notices.
(56)	947.01	Disorderly conduct.
(57)	947.012	Unlawful use of telephone.
(58)	947.013	Harassment.
(59)	947.015	Bomb scares.

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(60)	947.02	Vagrancy.
(61)	947.06	Unlawful assemblies and their suppression.
(62)	948.01	Definitions – Crimes Against Children.
(63)	948.03	Physical abuse of a child.
(64)	948.04	Causing mental harm to a child.
(65)	948.31	Interference with custody by parent or others.
(66)	948.40	Contributing to the delinquency of a child.
(67)	948.45	Contributing to truancy.
(68)	948.50	Strip search by school employee.
(69)	948.51	Hazing.
(70)	948.53	Child unattended in child care vehicle.
(71)	948.55	Leaving or storing a loaded firearm within the reach or easy access of a child.
(72)	948.60	Possession of a dangerous weapon by a person under 18.
(73)	948.61	Dangerous weapons other than firearms on school premises.
(74)	948.62	Receiving stolen property from a child.
(75)	948.63	Receiving property from a child.
(76)	948.70	Tattooing of children.
(77)	951.01	Definitions – Crimes Against Animals.
(78)	951.015	Construction and Application.
(79)	951.02	Mistreating animals.
(80)	951.025	Decompression prohibited.
(81)	951.03	Dognapping or catnapping.
(82)	951.04	Leading animal from motor vehicle.
(83)	951.05	Transportation of animals.
(84)	951.06	Use of poisonous and controlled substances.
(85)	951.07	Use of certain devices prohibited.
(86)	951.08	Instigating fights between animals.
(87)	951.09	Shooting at caged or staked animals.
(88)	951.095	Harassment of police and fire animals.
(89)	951.097	Harassment of service dogs.
(90)	951.10	Sale of baby rabbits, chicks and other fowl.
(91)	951.11	Artificially colored animals; sale.
(92)	951.13	Providing proper food and drink to confined animals.
(93)	951.14	Providing proper shelter.
(94)	951.15	Abandoning animals.

**CHAPTER 2**

Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms, Weapons and Explosives
11-2-2	Firearms/Weapons in Public Buildings Prohibited
11-2-3	Throwing or Shooting of Arrows, Stones and Other Missiles Prohibited
12-2-4	Facsimile Firearms Prohibited
11-2-5	Harassing or Obscene Telephone Calls
11-2-6	Sale and Discharge of Fireworks Restricted
11-2-7	Obstructing Streets and Sidewalks Prohibited
11-2-8	Loitering Prohibited
11-2-9	Loud and Unnecessary Noise Prohibited
11-2-10	Disorderly Conduct
11-2-11	Possession of Controlled Substances
11-2-12	Unauthorized Presence on School Property Prohibited
11-2-13	Failure to Obey Lawful Order
11-2-14	Trespass Prohibited
11-2-15	Harassment Prohibited
11-2-16	Purchase and Sale of Tobacco Products to Minors
11-2-17	Misuse of the E911
11-2-18	Scavenging of Recyclable Materials Prohibited.

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

- (a) **Adoption of State Law Regarding Carrying of Weapons:** W.S.A. §939.22(10), §943.13 (1m)(c) and §941.23 regarding weapons, exclusive of the penalty, is hereby adopted and made an offense punishable as a violation of this Code. Nothing in this section shall prohibit any discharge, carry or use of weapons for firearms permitted under State Statute.
- (b) **Discharge of Firearms and Dangerous Weapons Regulated.** No person, except a police officer, sheriff, deputy, or other law enforcement officer shall fire or discharge any dangerous weapon, firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description within the City.
- (c) **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm or dangerous weapon 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, after an advisory recommendation from the Chief of Police, where proper safety precautions are taken.
- (e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Chief of Police, except for blasting permits under Section 7-10-7(c).
- (f) **Hunting Generally Prohibited; Bow Hunting Permissible with Restrictions.** Hunting is prohibited within the corporate limits of the City of Cedarburg. (Ord. 2018-06)
  - (1) Exception for bow hunting. Notwithstanding the foregoing; hunting with a bow or crossbow is allowed within the City, but only if done in strict compliance with all of

the following restrictions:

- (i) Discharge of any arrow or bolt of a weapon must be toward the ground.
  - (ii) No person shall hunt with a bow or crossbow within 100 yards of a building used for human occupancy. This restriction does not apply if the person who owns the land on which the building is located has given prior permission for the hunter to hunt within 100 yards of the building.
  - (iii) No person shall hunt by bow or crossbow while standing in, or by discharging an arrow or bolt into, any park or municipally owned land.
- (2) Other laws apply. To the extent hunting is permitted by this section, nothing in this section should be interpreted to conflict with or supersede any other law or administrative provision regulating hunting, including but not limited to licensing, tagging, seasons, manner of harvest, or species restrictions.
- (3) Definitions. The terms “bow” and “crossbow” have the meanings set forth in Wis. Stat. § 29.001.

#### **SEC. 11-2-2 FIREARMS/WEAPONS IN PUBLIC BUILDINGS PROHIBITED.**

- (a) Pursuant to Wis. Stats. 943.13(1m)(c)4., no person shall enter or remain in any part of any building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or weapon or a specific type of firearm or weapon.
- (b) The City Administrator/Treasurer shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the City of Cedarburg providing notice that no person is to enter or remain in any such building while carrying a firearm or weapon. Such signs shall be five inches by seven inches or larger.
- (c) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm or weapon in any public building. Notwithstanding Wis. Stats. 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.
- (d) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. 941.23 or 941.235. (Ord. 2011-16)

#### **SEC. 11-2- 3 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.**

It shall be unlawful for any person to discharge or throw by any means any dangerous missile, object, arrow, stone, snowball or other missile within the City of Cedarburg, provided, however, upon written application to the Chief of Police, a person may be granted permission by the Common Council, upon the advisory recommendation of the Chief of Police, to construct and maintain supervised archery ranges if, in the opinion of the Common Council, the construction or maintenance of such ranges will not endanger the public health and safety. (Ord. 2018-06)

- (a) **Exception for hunting.** Notwithstanding the foregoing, a person may use a bow and arrow

- or crossbow for hunting if permitted by Section 11-2-1(f) of the Municipal Code.
- (b) **Exception for bowfishing.** Notwithstanding the foregoing, a person may use a bow or crossbow for fishing if such use meets all of the following criteria:
    - 1. The person is engaged in bowfishing from a boat freely floating on a navigable body of water;
    - 2. The arrow or bolt is specific to the task of bowfishing;
    - 3. The arrow or bolt is attached to the bow or crossbow by an appropriate cord or line not more than 100 feet in length;
    - 4. The person discharges the arrow or bolt on a downward trajectory;
    - 5. Any auxiliary lighting used is angled at least 45 degrees towards the water.
  - (c) **Definitions.** The terms “bow” and “crossbow” have the meanings set forth in Wis. Stat. § 29.001.
  - (d) **Other laws apply.** To the extent bowfishing is permitted by this section, nothing in this section should be interpreted to conflict with or supersede any other law or administrative provision regulating fishing or bowfishing, including but not limited to licensing, manner of harvest, seasons, or species restrictions. (Ord. 2018-06)

#### **SEC. 11-2-4 FACSIMILE FIREARMS PROHIBITED**

- (a) **Facsimile Firearms.** Means any replica, toy, starter pistol or other object that bears a reasonable resemblance to or that reasonably can be perceived to be an actual firearm. “Facsimile firearm” does not include any actual firearm.
- (b) **Carrying and Displaying Facsimile Firearm Prohibited:** No person, unless on his or her own land or acting with the consent of the owner of the land shall carry and/or display any facsimile firearm in such a manner as could reasonably be expected to alarm, intimidate, threaten or terrify another person. (Ord. 2013-05)

#### **SEC. 11-2-5 HARASSING OR OBSCENE TELEPHONE CALLS.**

Whoever commits any of the following acts shall be subject to the general penalty as provided in this Municipal Code:

- (a) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;
- (b) Makes a telephone call, whether of not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
- (c) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;
- (d) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;
- (e) Knowingly permits any telephone under his control to be used for any purpose prohibited by this Section;
- (f) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

**SEC. 11-2-6 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.**

No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he shall be authorized by a fireworks permit as provided in Title 7, Chapter 8, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 7-8-1 of the City of Cedarburg Code of Ordinances and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

**SEC. 11-2-7 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.**

- (a) **Obstructing Streets.** No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, bridge or public ground within the City in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.
- (b) **Blocking Sidewalk Prohibited.** No person shall block any sidewalk by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. Chairs and other like obstacles for viewing of the 4<sup>th</sup> of July parade shall not be placed on any sidewalk prior to 7:00 p.m. the night before the parade. No items shall be affixed or attached to any trees, plantings, or fixtures in the right-of-way. (Ord. 2018-04)
- (c) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.
- (d) **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) **Block.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such walk.
  - (2) **Sidewalk.** Any sidewalk owned or maintained by the City. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.

**SEC. 11-2-8 LOITERING 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 police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm. (Ord. 95-04)

**SEC. 11-2-9 LOUD AND UNNECESSARY NOISE PROHIBITED.** (Ord. 95-03)

- (a) **Loud and Unnecessary Noise Prohibited.** No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.
- (b) **Complaints.** Upon receipt of a complaint concerning the existence of a nuisance as defined above, the (Chief of Police or designee) may commence prosecution if in his or her professional judgment such noise constitutes a nuisance following personal observation of the noise and consideration of the time of day, type of district and neighborhood which was the subject of the complaint.
- (c) **Appeals.** The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Section for existing industries.
- (d) **Permits for Amplifying Devices.**
  - (1) Permit Required. The use of loudspeakers or amplifying devices on the streets or in the parks of the City of Cedarburg is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police.
  - (2) Grounds or Reasons for Denial or Allowance. The Chief of said Police Department shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.
  - (3) Time Restrictions. The Chief of the Police Department shall not grant a permit to use a loudspeaker or amplifying device before the hours of 8:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Chief of Police, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

**SEC. 11-2-10 DISORDERLY CONDUCT.** (Ord. 99-36)

It shall be unlawful for any person, in a public or private place, to engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under

circumstances in which the conduct tends to cause or provoke a disturbance.

**SEC. 11-2-11 POSSESSION OF CONTROLLED SUBSTANCES.**

- (a) **Controlled Substances.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161 of the Wisconsin Statutes.
- (b) **Possession of Marijuana.** No person shall possess any amount of marijuana, tetra-hydrocannabinoids or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.
- (c) **Drug Paraphernalia.** (Ord. 90-12)
  - (1) **Definition.** In this section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, 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:
    - a. 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.
    - b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
    - c. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.
    - d. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
    - e. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
    - f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
    - g. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
    - h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.
    - i. Capsules, balloons, envelopes or other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
    - j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

- k. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
  - l. 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:
    - (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
    - (2) Water pipes.
    - (3) Carburetion tubes and devices.
    - (4) Smoking and carburetion masks.
    - (5) Objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand.
    - (6) Miniature cocaine spoons and cocaine vials.
    - (7) Chamber pipes.
    - (8) Carburetor pipes.
    - (9) Electric pipes.
    - (10) Air-driven pipes.
    - (11) Chillums.
    - (12) Bongs.
    - (13) Ice Pipes or chillers.
- (2) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered:
- (a) Statements by an owner or by anyone in control of the object concerning its use.
  - (b) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - (c) The proximity of the object in time and space to a direct violation of this section.
  - (d) The proximity of the object to controlled substances.
  - (e) The existence of any residue of controlled substances on the object.
  - (f) Direct or circumstantial evidence of the intent of any owner or of anyone in control of the object to deliver it to persons who 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 shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
  - (g) Oral or written instructions provided with the object concerning its use.
  - (h) Descriptive materials accompanying the object which explain or depict its use.
  - (i) National and local advertising concerning its use.
  - (j) The manner in which the object is displayed for sale.

- (k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
  - (l) The existence and scope of legitimate uses for the object in the community.
  - (m) Expert testimony concerning its use.
- (3) **Prohibited Activities.**
- (a) **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.
  - (b) **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.
  - (c) **Delivery of Drug paraphernalia to a Minor.** Any person 18 years of age or over who violates par. b by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.
  - (d) **Advertisement of Drug Paraphernalia.** No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, 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.
  - (e) **Exemption.** This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 161, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 161, Wis. Stats.
- (4) **Penalties.**
- (a) Any drug paraphernalia used in violation of this section shall be seized and forfeited to the city.
  - (b) Any person who violates sub. 3-a, b, or d shall, upon conviction, be subject to a forfeiture of not less than \$100.00 and not more than \$500.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 90 days.
  - (c) Any person who violates sub. 3-c shall, upon conviction, be subject to a forfeiture of not less than \$200.00 and not more than \$1,000.00, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed six months.

(d) **Synthetic Cannabinoid Prohibited.**

- (1) It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly display for sale or attempt to sell, give, or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, Yucatan Fire”, “fake” or “new” marijuana, or by another name, label or description:
- a. Salviadinorum or salvinatorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
  - b. (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethy-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol some trade or other names: HU-210;
  - c. 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JW11-018\spice;
  - d. 1-Butyl-3-(1naphthoyl) indole-some trade or other names: JWH-073;
  - e. 1-(3 {trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP;
  - f. or any similar structural analogs.
  - g. Medical or Dental Use Allowed. Acts otherwise prohibited under this section shall not be unlawful if done by or under the direction or prescription of a physician, dentist, or other medical health professional, licensed by the State of Wisconsin, provided that such use is permitted under Wisconsin and federal laws.
- (2) **Penalties.**
- (a) Any chemical used in violation of this section shall be seized and forfeited to the City.
  - (b) Any person who violates sub. (1) a., b., c., d., e., or f., shall, upon conviction, be subject to a forfeiture of not less than \$100.00 and not more than \$500.00, together with the costs of prosecution, and upon default of payment be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed 90 days. (Ord. 2011-05)

State Law Reference: Chapter 161, Wis. Stats.

**SEC. 11-2-12 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.**

- (a) (1) It shall be unlawful for any person, except as provided in Subsection (b) hereof, to be present in, loiter or enter into any public school building, school parking lot or on any public school grounds without the permission of the school principal, custodian or other person in charge thereof between 7:30 a.m. and 4:30 p.m. on official school days.
- (2) It shall be unlawful for any student who is under suspension, expulsion, exemption or other discipline excluding him from attending school under the jurisdiction of the

Cedarburg Board of Education, or for any person, not a student presently enrolled to attend school under the jurisdiction of the Cedarburg Board of Education or not an employee of said Cedarburg Board of Education or not an otherwise "authorized person," to be present within any school building or upon any school ground under the Jurisdiction of said School Board without having first secured authorization to be there from the principal or other person in charge of said school building or school grounds, except while in direct route to secure said authorization. Authorized person" shall include any person who is present at any school building or school grounds for any purpose previously authorized by the Board of Education or its designee.

- (3) Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of said School Board, or upon request of any police officer, display any written authorization to be present which he may have, in his possession or explain his presence or his status as such student, employee, parent, or guardian, or "authorized person" referred to in Subsection (a)(2) hereof.
- (b) This Section shall not apply to:
    - (1) Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof to leave the school building or school grounds;
    - (2) Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this exception shall apply only to the portion of the premises on which facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;
    - (3) Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.
  - (c) The exceptions set forth in Subsection (b) shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.
  - (d) All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

#### **SEC. 11-2-13 FAILURE TO OBEY LAWFUL ORDER.**

It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

#### **SEC. 11-2-14 TRESPASS PROHIBITED.**

The provision of the Sections 943.13 and 788.26, Wis. Stats., pertaining to trespassing to lands and the citation procedure for enforcement of the prohibition on trespass to lands, respectively, including

penalties to be imposed and procedure for prosecution, are hereby adopted and by reference made a part of this Section as if fully set forth herein. Any act required to be performed or prohibited by either statute incorporated herein by reference is required or prohibited by this Section.

State Law Reference: Sections 788.26 and 943.13, Wis. Stats.

**SEC. 11-2-15 HARASSMENT PROHIBITED.**

- (a) No person shall, with intent to harass or intimidate another person, do any of the following:
  - (1) Strike, shove, kick or otherwise subject a person to physical contact or attempt to threaten to do the same.
  - (2) Engage in a course of conduct or repeatedly commit acts which harass or intimidate a person and which serve no legitimate purpose.
- (b) This Section does not prohibit any person from participating in lawful conduct in labor disputes, pursuant to Sec. 103.53, Wis. Stats.

State Law Reference: Section 947.013, Wis. Stats.

**SEC. 11-2-16 PURCHASE AND SALE OF TOBACCO PRODUCTS TO MINORS.** (Ord. 92-05)  
(Ord. 2003-05)

The following statutes placing restrictions on sale or gift of cigarette or tobacco products to underage persons and on possession or use of cigarette or tobacco products by underage persons are adopted by reference to define offenses involving purchase, sale and use of tobacco products by underage persons 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 a part of this Code

134.66 Restrictions on Sale or Gift of Cigarettes or Tobacco Products

254.92 Purchase or possession of cigarettes or tobacco products by person under 18 prohibited.

**SEC. 11-2-17 MISUSE OF THE E911.** (Ord. 92-10)

- (a) No person shall utilize the E911 emergency telephone number system for any purpose other than to report an emergency.
- (b) It shall be unlawful to report an alleged emergency knowing that the fact situation which he or she reports does not exist.
- (c) An "emergency" under this section exists when the person reasonably believes that immediate response by public safety personnel is essential due to the risk or actual occurrence of:
  - (1) Death or great bodily harm.
  - (2) Property damage.

- (3) Any other situation which mandates the immediate response of public safety personnel.
- (4) Any person violating this section shall, upon conviction, be subject to a forfeiture of not more than \$200, together with the costs of prosecution.

**SEC. 11-2-18 SCAVENGING OF RECYCLABLE MATERIALS PROHIBITED.**

No person except law enforcement personnel and authorized employees of the City of Cedarburg shall remove, take or otherwise meddle or tamper with recyclable material, as that term is defined in Section 8-3-14(e) of this Code, which is placed out by any person for collection by the City.

(Ord. 95-04)

## 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	Retail Theft
11-3-5	Storage of Junk, Etc., Regulated
11-3-6	Issuance of Worthless Checks
11-3-7	Theft of Library Material
11-3-8	Damaging or Tampering With Coin Machines
11-3-9	Damage to Public Property
11-3-10	Disturbing Cemetery Property
11-3-11	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 City and belonging to the City or its departments, the Cedarburg School District 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 the amount specified in Sec. 799.01(1)(d), Wis. Stats. (Ord. 96-23)
- (c) **Unlawful Removal of Property.** It shall be unlawful for any person to take and carry away the property of another without the owner's consent with the intention to do so.

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

- (a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the City, or upon property within the City owned by the Cedarburg 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 shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
  - (2) Litter to be Cleaned Up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If

any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.

- (3) Litter Picked Up at Litterer's Expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the City shall arrange to have the same picked up by City 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 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) **Dumping of Refuse and Grass in Gutters.** No person shall deposit any refuse, leaves or grass clippings in any gutter along any public street, road, alley or highway.
- (d) **Handbills.**
- (1) Scattering 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 entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
- (2) Papers in Public Places Prohibited. It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.

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

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

### **SEC. 11-3-4 RETAIL THEFT.**

- (a) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection (d).
- (b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of

intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

- (c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this Section in his 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) Penalty. If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit not more than Two Hundred Dollars (\$200.00). If the value of the merchandise exceeds One Hundred Dollars (\$100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

State Law Reference: Section 943.50, Wis. Stats.

#### **SEC. 11-3-5 STORAGE OF JUNK, ETC., REGULATED.**

No person shall store junked or discarded property including automobiles, automobile parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood except or upon permit issued by the Common Council. The Chief of Police or Building Inspector may require by written order any premises violating this Section to be put in compliance within the time specified in such order and, if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

Cross Reference: Title 10, Chapter 5.

#### **SEC. 11-3-6 ISSUANCE OF WORTHLESS CHECKS.**

- (a) Whoever issues any check or other order for the payment of money less than Five Hundred Dollars (\$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; or
  - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice

- of non-payment or dishonor to pay the check or other order; or
- (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- (c) This Section does not apply to a post-dated check.
- (d) Any person violating any provisions of this Section shall forfeit not less than Fifty Dollars (\$50.00) if the worthless check is for an amount equal to or less than One Hundred Fifty Dollars (\$150.00) and shall forfeit not less than One Hundred Dollars (\$100.00) if the worthless check is an amount greater than One Hundred Fifty Dollars (\$150.00) and less than Five Hundred Dollars (\$500.00), together with the costs of prosecution and, in default of payment, imprisonment in the County Jail until forfeiture and costs are paid but not to exceed sixty (60) days.

#### SEC. 11-3-7 THEFT OF LIBRARY MATERIAL.

- (a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:
- (1) Archives. A place in which public or institutional records are systematically preserved.
- (2) Library. Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries of the City of Cedarburg.
- (3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of 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 peace 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 peace 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 library material.
- (f) **Return Demanded.** No person shall fail, on demand, to return any library material when such demand has been made in accordance with the rules and regulations duly made and adopted by the library.

State Law Reference: Section 943.61, Wis. Stats.

#### **SEC. 11-3-8 DAMAGING OR TAMPERING WITH COIN MACHINES.**

- (a) No person shall, without lawful authority, open, remove or damage any coin machine, coin telephone or other vending machine dispensing goods or services, or a part thereof, or possess a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services, or possess a drawing, print or mold of a key or device specifically designed to open or break any coin machine, coin telephone or other vending machine dispensing goods or services within the limits of the City. No person shall deposit a slug in a coin-operated machine.
- (b) In this Section, coin machine means any device or receptacle designed to receive money or anything of value. The term includes a depository box, parking meter, vending machine, pay telephone, money-changing machine, coin-operated phonograph and amusement machine if they are designed to receive money or other thing of value.

#### **SEC. 11-3-9 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 street lamps or windows of any building owned or occupied by the City.

#### **SEC. 11-3-10 DISTURBING CEMETERY PROPERTY.**

No person except the owner of the cemetery lot or a cemetery employee shall cut, remove, injury or carry away flowers, trees, plants or vines from any cemetery lot or property; nor shall any person deface, injury or mark upon any cemetery markers, headstones, monuments, fences or structures; nor shall any person other than the owner injure, carry away or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot.

**SEC. 11-3-11 PENALTIES.**

In addition to the general penalty of this Code in Section 1-1-7 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 the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

## CHAPTER 4

### Obscenity

#### 11-4-1 Exposing Minors to Harmful Materials

#### SEC. 11-4-1 EXPOSING MINORS TO HARMFUL MATERIALS.

(a) **Definitions.** As used in this Section:

- (1) "Minor" means any person under the age of eighteen (18) years.
- (2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion there of below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- (3) "Sexual conduct" is defined to be acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus and acts of excretory function, lewd exhibition of the genitals, especially in a stimulated condition and sexual relations between humans and animals.
- (4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
  - a. The character and content of any material described herein which is reasonably suspect under this Section; and
  - b. The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- (8) "Knowledge of the minor's age" means:
  - a. Knowledge or information that the person is a minor; or
  - b. Reason to know, or a belief or grounds for belief, which warrants further

inspection or inquiry of the age of the minor.

- (b) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.
- (c) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
  - (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.
  - (2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in (c)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- (d) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

State Law Reference: Section 944.25, Wis. Stats.

## CHAPTER 5

### Offenses Involving Alcoholic Beverages

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

#### SEC. 11-5-1 OUTSIDE CONSUMPTION.

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

- (1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City or on private property without the owner's consent, except at licensed premises. No person shall purchase an intoxicating liquor or fermented malt beverage or wine by glass or in open containers except for consumption on the licensed premises, and no person shall be in possession of any glass or open container containing a fermented malt beverage, wine, or intoxicating liquor of any kind, or drink from the same, whether in or out of a vehicle, in any of the following places:
- Any municipal parking lot;
  - Any public way, street, sidewalk, boulevard, parkway, safety zone or alley
  - Any privately owned property which is open for use to public vehicular traffic or public parking; and
  - Any grounds under the control of a public school district, and when posted, the grounds of any privately owned or operated school, church, hospital, or other institution or place, except duly licensed premises frequented by the public.
- (2) Parks. No person shall purchase an intoxicating liquor, fermented malt beverage or wine by glass or in open containers except for consumption on the licensed premises, and no person shall be in possession of any glass or open container containing intoxicating liquor, wine or fermented malt beverage, or drink the same, whether in or out of a vehicle, in any municipal park or recreation area except in specific and during such hours as designated in a park usage permit issued by the office of the City Clerk or on premises for which a class "B" license has been issued by the Common Council of the City of Cedarburg.

- (3) Private Property Held Out For Public Use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.
  - (4) Leaving Licensed Premises With Open Container.
    - a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
    - b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.
    - c. It shall be unlawful for any patron to remove an original unopened package, container or bottle containing any alcohol beverage from a Class A licensed premises between the hours of 9:00 p.m. and 6:00 a.m.
  - (5) Picnic Beer Permits For Parks.
    - a. Applicants for special Class "B" Permits shall fully comply with the requirements of Section 7-2-16.
    - b. The sale of fermented malt beverages from remote sites, that is, other than the main point of sale facility, shall be prohibited after the hour of 9:00 p.m.
  - (6) Exceptions.
    - a. The provisions of this Section may be waived by the Common Council for duly authorized events.
    - b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances for a specific area, provided that the provisions of this Chapter and Title 7, Chapter 2, are fully complied with.
- (b) **Definitions.**
- (1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
  - (2) As used in this Section, the term "public area" shall be construed to mean any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
  - (3) As used in this Chapter "underage person" shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7-2-16.

**SEC. 11-5-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.**

- (a) **Sales of Alcohol Beverages to Underage Persons.**
- (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
  - (2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his 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, the Common Council shall suspend any license issued under Title 7 of this Code to a person violating this Section pursuant to Section 125.07(1)(b)3, Wis.
- (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) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07, Wis. Stats.

**SEC. 11-5-3 UNDERAGE PERSONS' PRESENCE IN PLACES OF SALE; PENALTY.**

(Ord. 91-17) (Ord. 91-36)

- (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 similar activities which normally constitute activities of a customer of the premises. The 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", Class "C" or Class "A" premises for the purpose of purchasing items 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" fermented malt beverage or "Class B" alcoholic beverage license or Class "C" wine license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B", or Class "C" 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", "Class B" or Class "C" premises for the purpose of transacting business at an auction or market if the person does not enter or remain in a room where alcohol beverages are sold, furnished or processed.
- (8) An underage person who enters or remains in a room on Class "B", "Class B" or Class "C" 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", "Class B" or Class "C" premises under this Subsection only if the City of Cedarburg Police Department issues to the Class "B", "Class B" or Class "C" 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 Department shall make a determination that the presence of the 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.
- (9) A person who is at least 18 years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
- (10) An underage person who enters or remains on Class "B", "Class B", or Class "C" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the

licensee, the agent named in the license if the licensee is a corporation or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the local law enforcement agency, in advance, of the times underage persons will be allowed on the premises under the subdivision.

- (11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.
- (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) if the licensee or permittee has not committed a previous violation within 12 months of the violation, not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the licensee or permittee has committed a previous violation within 12 months, not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), if the licensee or permittee has committed two previous violations within 12 months of the violation, and not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00) if the licensee or permittee has committed 3 or more previous violations within 12 months of the violation. All violations occurring at one time shall be counted as one violation.

**SEC. 11-5-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.** (Ord. 91-17) (Ord. 92-43)

- (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 or fermented malt beverage.
  - (3) Enters or is on licensed premises in violation of Section 11-5-3(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 shall not enter, remain or loiter in any public or private place where any fermented malt beverage or other alcoholic beverage is being sold, dispensed, given away or made available to under-aged persons.
- (c) Any person violating Subsections (a) or (b) is subject to the following penalties:
- (1) For a first violation, a forfeiture as set forth in the current State of Wisconsin Revised Uniform State Deposit Schedule, 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. (Ord. 2004-40)
  - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture as set forth in the current State of Wisconsin Revised Uniform State Deposit Schedule, 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. (Ord. 2004-40)
- (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture as set forth in the current State of Wisconsin Revised Uniform State Deposit Schedule, 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. (Ord. 2004-40)
- (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 Common Council. 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. 11-5-5 DEFENSE OF SELLERS.** (Ord. 91-17)

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated the provisions of this Code, all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages may be considered, including any circumstances under Subsections (1) to (4). In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any

prosecution for a violation of this section:

- (1) That the purchaser falsely represented 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 age.
  - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
  - (4) That the underage person supported the representation under Subsection (1) with documentation that he or she 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 purposes of Subsection (a). The licensee or permittee or his or her employee may require any of the following persons to sign the book:
- (1) A 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.
  - (2) A person who alleges to be the underage person's parent, guardian or spouse and further alleges to have attained the legal drinking age, if the licensee or permittee or his or her employee suspects that such person is not the underage person's parent, guardian or spouse or that such person has not attained the legal drinking age.
- (c) The book may show the date of the purchase of the alcohol beverages, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchaser and the purchaser's signature.

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

**SEC. 11-5-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE;  
FALSE OR ALTERED IDENTIFICATION CARDS.** (Ord. 91-17)

- (a)
  - (1) No person may make, alter or duplicate an official identification card, or provide an official identification card to an underage person, or knowingly provide other documentation to an underage person purporting to show that the underage person has attained the legal drinking age. No person may possess an official identification card or other documentation used for proof of age with the intent of providing it to an underage person. Any person who violates this Subsection may be fined not less than One Hundred Dollars (\$100.00) 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 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 Sec. 48.344 and Secs. 125.07(4)(c) and (d), Wis. Stats.:

- (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.
- (2) Makes, alters or duplicates an official identification card purporting to show that he or she has attained the legal drinking age.
- (3) Presents false information to an issuing officer in applying for an official identification card.
- (4) Intentionally carries an official identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.
- (5) Provides to another underage person an official identification card or other documentation purporting to show that the other underage person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

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

**SEC. 11-5-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS  
PROHIBITED.** (Ord. 91-17)

- (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 11-5-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 11-6-5.

**SEC. 11-5-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.**

City of Cedarburg  
Offenses and Nuisances

(Ord. 92-43)

- (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 person of legal drinking age shall knowingly suffer or permit any under-aged person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcoholic beverages are served, sold, dispensed, given away or made available to under-aged persons unless such under-aged person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (c) No adult may intentionally encourage or contribute to a violation of Section 11-5-4(a) or (b).
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00).

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

**SEC. 11-5-9 SOLICITATION OF DRINKS PROHIBITED.**

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the City 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 6

### Offenses by Juveniles

11-6-1	Curfew
11-6-2	Possession of Controlled Substances by Juveniles
11-6-3	Petty Theft by Juveniles
11-6-4	Receiving Stolen Goods
11-6-5	City Jurisdiction Over Persons 14 through 17 Years of Age
11-6-6	Truancy
11-6-7	Enforcement and Penalties

#### SEC. 11-6-1 CURFEW.

- (a) **Curfew Established.** It shall be unlawful for any person under sixteen (16) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the City of Cedarburg between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.
- (b) **Exceptions.**
- (1) This Section shall not apply to a child:
    - a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
    - b. Who is on his own premises or in the areas immediately adjacent thereto.
    - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
    - d. Who is returning home from a supervised school, church or civic function.
  - (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- (c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under sixteen (16) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under sixteen (16) years of age to violate this Section.
- (d) **Responsibility of Places of Amusement.** It shall be unlawful for any person, firm or

organization operating or in charge of any place of amusement, entertainment refreshment or other place of business to permit any minor under sixteen (16) years of age to loiter, loaf or idle in such place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this Section shall find persons under sixteen (16) years of age loitering, loafing or idling in such place of business, he shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform them of the violation.

- (e) **Detaining a Minor.** Every law enforcement officer is hereby authorized to detain any minor violating the provisions of above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the Police shall take whatever action is deemed necessary in the best interest of the minor.
- (f) **First Offense Notice.** The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer of the City, as provided in Subsection (e), such minor, parent, guardian or person having such legal custody shall be advised, personally, if known or by registered mail, as to the provisions of this Section, and further advised that any violation of this Section occurring thereafter by this minor or any other minor under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
- (g) **Penalty.**
  - (1) Any parent, guardian or person having legal custody of a child described in Subsections (a) through (e) who has been warned in the manner provided in Subsection (f) and who thereafter violates any of the provisions of this Section shall be subject to a penalty as provided in Sec. 1-1-7 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats.
  - (2) Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the cost of prosecution.

#### **SEC. 11-6-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.**

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161, of the Wisconsin Statutes.

#### **SEC. 11-6-3 PETTY THEFT BY JUVENILES.**

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

**SEC. 11-6-4 RECEIVING STOLEN GOODS.**

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

**SEC. 11-6-5 CITY JURISDICTION OVER PERSONS 14 THROUGH 17 YEARS OF AGE.**

- (a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **Provisions of Ordinance Applicable to Persons 14 through 17 Years of Age.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., as are applicable to adults charged with the same offense.
- (c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (d) **Additional Prohibited Acts.** In addition to any other provision of the City of Cedarburg Code of Ordinances, no person age 14 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **Penalty for Violations of Subsection (d).** Any person 14 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-7 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross Reference: Section 11-5-7.

**SEC. 11-6-6 TRUANCY. (Ord. 99-10)**

- (a) **Authority.** Wisconsin Statutes Sections 118.163(1m) and 118.163(2) authorize the City of Cedarburg to adopt a municipal truancy ordinance.
- (b) **Definitions.** For purpose of this ordinance:
  - (1) "Habitual Truant" - means a pupil who is absent from school without an acceptable excuse part or all of 5 or more days on which school is held during a school semester.
  - (2) "Truant" - means 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.
  - (3) "Acceptable Excuse" - has the meaning as defined in Sections 118.15 and 118.16(4), Wisconsin Statutes.
  - (4) "Operating Privilege" - has the meaning as defined in Section 340.01(40), Wisconsin Statutes.
- (c) **Truancy.** The City of Cedarburg by this ordinance does prohibit any person under 18 years of age within its jurisdiction from being truant as that term is defined in this ordinance. The

Cedarburg Police Department is authorized to issue a municipal citation to any such person found within its jurisdiction who is determined to be truant under the terms of this ordinance, the parents or guardian of such person, or both. Any citation issued shall be returnable in the Circuit Court of Ozaukee County in the same manner as all ordinance citations are returnable.

(d) **Disposition for Truancy.** Upon finding the pupil truant, the following dispositions are available to the Court:

- (1) An order for the pupil to attend school.
- (2) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wisconsin Statutes Section 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the pupil, the parents or guardian of the pupil, or both.

(e) **Habitual Truancy.** The City of Cedarburg by this ordinance does prohibit any person under 18 years of age within its jurisdiction from being a habitual truant as that term is defined in this ordinance. The Cedarburg Police Department is authorized to issue a municipal citation to any such person found within its jurisdiction who is determined to be habitually truant under the terms of this ordinance, the parents or guardian of such person, or both.

(1) Prior to the issuance of any citation, the law enforcement personnel shall determine whether the school officials have done the following:

- a. Met with the pupil's parent or guardian to discuss the pupil's truancy or attempted to meet with the pupil's parent or guardian and received no response or were refused. This requirement does not apply if a meeting under Section 118.16(2)(cg)3., Wisconsin Statutes is not held within 10 school days after the date the notice under Section 118.16(2)(cg) was sent.
- b. Provided an opportunity for educational counseling to the pupil to determine whether a change in the pupil's curriculum would resolve the pupil's truancy and considered curriculum modifications. This requirement does not apply if school personnel were unable to carry out the activity due to the pupil's absences from school.
- c. Evaluated the pupil to determine whether learning problems are a cause of the truancy and, if so, taken steps to overcome the learning problems, except that the pupil need not be evaluated if tests administered to the pupil within the previous year indicate that the pupil is performing at his or her grade level. This requirement does not apply if school personnel were unable to carry out the activity due to the pupil's absences from school.
- d. Conducted an evaluation to determine whether social problems are a cause of the pupil's truancy and, if so, taken appropriate action or made appropriate referrals. This requirement does not apply if school personnel were unable to carry out the activity due to the pupil's absences from school.

(2) Any citation issued shall be returnable in the Circuit Court of Ozaukee County in the same manner as all ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation.

- (f) **Disposition for Habitual Truancy.** Upon finding the pupil habitually truant, the following dispositions are available to the Court:
- (1) Suspension of the pupil's operating privileges for not less than 30 days or 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) An order for the pupil to participate in counseling or a supervised work program or other community service work as described in Section 938.34(5g) Wisconsin Statutes. The costs of any such counseling, supervised work program or other community service work may be assessed against the pupil, the parents or guardian of the pupil, or both.
  - (3) An order for the pupil to remain at home except during hours in which the person 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 pupil to leave his or her home if the pupil is accompanied by a parent or guardian.
  - (4) An order for the pupil to attend an educational program as described in Section 938.34(7d) Wisconsin Statutes.
  - (5) An order for the department of industry, labor and human relations to revoke, under Section 103.72 Wisconsin Statutes, a permit under Section 103.70 Wisconsin Statutes authorizing the employment of the pupil.
  - (6) An order for the pupil to attend school.
  - (7) A forfeiture of not more than \$500 plus costs, subject to Section 938.37 Wisconsin statutes. All or part of the forfeiture plus costs may be assessed against the pupil, the parents or guardian of the pupil, or both.
  - (8) Any other reasonable conditions consistent with Section 118.163(2) of the Wisconsin Statutes, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
  - (9) An order placing the pupil under formal or informal supervision, as described in Section 938.34(2) Wisconsin Statutes for up to one year.
  - (10) An order for the pupil's parent(s), guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the pupil, or both.
- (g) **Severability.** If any section or part of this ordinance is adjudged unconstitutional or invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

#### **SEC. 11-6-7 ENFORCEMENT AND PENALTIES.**

- (a) **Citation Process.** For violations of Sections 11-6-2 through 11-6-5, juveniles may be cited by the citation process on a form approved by the City Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11-6-2 through 11-6-5 by a person under the age of eighteen (18) shall be punishable according to Sections 48.17(2), 48.343, 48.344 and 48.345 of the Wisconsin Statutes. Nothing in this Section shall prevent the juvenile officer, in his

discretion, from referring cases directly to the District Attorney's office.

## CHAPTER 11

### Public Nuisances

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

#### SEC. 11-7-1 PUBLIC NUISANCES PROHIBITED.

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

#### SEC. 11-7-2 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. 11-7-3 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 11-7-2:

- (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, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

- (d) **Stagnant Water.** All stagnant water in which mosquitoes, flies or other insects can multiply.
- (e) **Garbage Cans.** Garbage cans which are not fly-tight.
- (f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.
- (g) **Water Pollution** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.
- (h) **Noxious Odors, Etc.** Any use of property, substances or things within the City 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, or inconvenience the health of any appreciable number of persons within the City.
- (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 City.
- (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. 11-7-4 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 11-7-2:

- (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.
- (c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the City.
- (d) **Continuous Violation of City Ordinances.** Any place or premises within the City where City 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 City.

#### **SEC. 11-7-5 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 11-7-2:

- (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 City relating to materials and manner of construction of buildings and structures within the City.
- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.
- (f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the City.
- (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 City.
- (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 City 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 City 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) **Failure to Maintain Property.** Failure of an owner to maintain property as hereinafter required:
  - (1) Junked Vehicles and Machines. No person shall cause or permit the open storage of:
    - a. Abandoned motor vehicles, trailers, mobile homes or bicycles.
    - b. Abandoned parts, accessories or equipment for motor vehicles, trailers, mobile homes or bicycles.
    - c. Junked, damaged, dismantled, partially dismantled or otherwise inoperable motor vehicles, trailers, mobile homes or bicycles, whether awaiting repair or not for longer than seven days.
    - d. Machinery, equipment or parts thereof.
    - e. Ice boxes, refrigerators, stoves, glass building material, building rubbish or similar items likely to create physical hazards.
  - (2) Refuse, Rubbish and Garbage Storage. Every building or structure shall have adequate refuse, rubbish or garbage storage facilities as required by the City Municipal Code. No occupant shall accumulate or allow open storage of rubbish, boxes, lumber, metal or other materials which may provide harborage for rodents or vermin.
  - (3) Yards. Yards shall be kept substantially free of debris and shall be provided with adequate lawn, ground cover or vegetation. All areas not covered by any of the foregoing shall be treated to prevent dust accumulation or the blowing or scattering of dust particles in the air. All trees, bushes or other vegetation which overhang an entrance to a public highway, sidewalk or alley shall be properly trimmed to avoid obstruction of the view and movement of vehicles, bicycles and pedestrians.
  - (4) Driveways, Fences and Retaining Walls. Driveways, fences and retaining walls shall be maintained in good condition and repair.
  - (5) Exterior Appearance. Every building and structure shall be kept neat and attractive in appearance. All exterior wood surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating and applied in a workmanlike manner as often as necessary to preserve and maintain such appearance and prevent deterioration. Stone, brick or other masonry shall be kept adequately pointed and maintained.

#### **SEC. 11-7-6 ABATEMENT OF PUBLIC NUISANCES.**

- (a) **Enforcement.** The Chief of Police, the Chief of the Fire Department, the Director of Engineering and Public Works and the Building Inspector shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under 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 City and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Mayor, 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 City or its officials in accordance with the laws of the State of Wisconsin.

**SEC. 11-7-7 COST OF ABATEMENT AND PENALTY.** (Ord. 2000-29)

- (a) In addition to any other penalty imposed by this Chapter and Section 1-1-7 for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City 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.
- (b) **Penalty.** Any person who shall violate any of the provisions of this Code shall be subject to a penalty, which is as follows:
  - (1) First Offense -- Penalty. Any person who violates any provision of this Code shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00), together with the costs of prosecution.
  - (2) Second and Subsequent Offenses -- Penalty. Any person found guilty of violating any ordinance or part of an ordinance of this Code who shall previously have been convicted of a violation of the same ordinance within one year shall, upon conviction thereof, forfeit not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each such offense, together with costs of prosecution.
- (c) **Continued Violations.** Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the City from maintaining an appropriate action to prevent or remove a violation of any provision of this Code.
- (d) **Other Remedies.** The City shall have any and all other remedies afforded by the Wisconsin Statutes in addition to the forfeitures and costs of prosecution above.
- (e) **Citation Procedure.** All City officers and other City personnel charged with responsibility of enforcing the provisions of this Section are hereby authorized pursuant to Section 66.119(1)(a), Wis. Stats., to issue citations for violations of this Section.