

TITLE 11

Offenses and Nuisances

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Title 11 ► Chapter 1

State Statutes Adopted

- 11-1-1** Offenses Against State Laws Subject to Forfeiture
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Sec. 11-1-1 Offenses Against State Laws Subject to Forfeiture.

The following statutes defining offenses against the peace and good order of the State of Wisconsin are adopted by reference to define offenses against the peace and good order of the City of Washburn. With the exception of Sec. 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code of Ordinances. The penalty for truancy and high school dropouts shall be governed by the provisions of Sec. 938.342, Wis. Stats., as adopted herein.

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Sec. 11-1-2 Penalties; Attempt; Parties to Acts.

- (a) **Penalties; Damage to Property; Liability of Parents for Acts of Minors.** In addition to the general penalty provisions of this Code in Section 1-1-7 or any other penalty imposed for violation of any Section of this Title, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated juvenile who violates Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent law enforcement authorities from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.
- (b) **Attempt to Commit Prohibited Act.**
- (1) Whoever attempts to commit an act prohibited by Title 11 of the City of Washburn Code of Ordinances may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
 - (2) An attempt to commit an act prohibited by the ordinances in Title 11 requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he/she does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he/she formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- (c) **Parties to Acts Prohibited in Title 11.**
- (1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances, is a principal to the offense and may be charged with and convicted of the commission of said act although he/she did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.

- (2) A person is concerned in the commission of an act prohibited by these ordinances if he/she:
- a. Directly commits the act; or
 - b. Intentionally aids and abets the commission of it; or
 - c. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his/her mind and no longer desires that the act be committed and notifies the other parties concerned of his/her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

Sec. 11-1-3 Drug-Related Offenses

- (a) **Possession of Marijuana Prohibited.** No person may possess twenty-five (25) grams of marijuana, as defined in Section 961.01(14), Wis. Stats., except as permitted under Section 961.41(3g)(intro), Wis. Stats.
- (b) **Possession of Drug Paraphernalia.** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of Chapter 961, Wis. Stats.. Any person who violates this Subsection may be subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).
- (c) **Manufacture or Delivery of Drug Paraphernalia.** No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Chapter. Any person who violates this Subsection may be subject to a forfeiture of not more than One Thousand Dollars (\$1,000.00).
- (d) **Delivery of Drug Paraphernalia To A Minor.** Any person seventeen (17) years of age or over who violates Subsection (c) by delivering drug paraphernalia to a person seventeen (17) years of age or under who is at least three (3) years younger than the violator may be subject to a forfeiture of not more than One Thousand Dollars (\$1,000.00).
- (e) **Persons Under Seventeen (17) Years of Age.** Any person who violates Subsections (b), (c) or (d) above, and who is under seventeen (17) years of age, is subject to a disposition under Section 938.344(2e), Wis. Stats.

- (f) **Minimum Forfeitures and Deposit Amounts.** The minimum forfeiture and deposit amount for each of the offenses prescribed in this Section shall be the bail amount for the corresponding criminal offense, plus the court costs, fees, and surcharges applicable to a forfeiture of that amount, as contained in the schedules approved by the Judicial Conference and in effect at the time of the offense. The corresponding criminal offenses are as follows:
- (1) Subsection (a) corresponds to Section 961.41(3g)(e), Wis. Stats.;
 - (2) Subsection (b) corresponds to Section 961.573(1), Wis. Stats.; and
 - (3) Subsection (c) corresponds to Section 961.574(1), Wis. Stats.; and
 - (4) Subsection (d) corresponds to Section 961.575(1), Wis. Stats.
- (g) **Definition.** "Drug paraphernalia" has the definition given in Section 961.571(1)(a), Wis. Stats.

Cross-Reference: Section 11-5-6.

Title 11 ► Chapter 2

Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms, Paintball Devices, Explosives and Other Missiles; Hunting Limitations
11-2-2	Safe Use and Transportation of Firearms and Bows
11-2-3	Sale and Discharge of Fireworks Restricted
11-2-4	Obstructing Streets and Sidewalks Prohibited
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Sec. 11-2-1 Regulation of Firearms, Paintball Devices, Explosives and Other Missiles; Hunting Limitations.

(a) **Discharge of Firearms Regulated.**

- (1) **Discharge Prohibited.** No person shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description in his/her possession or under his/her control within the City of Washburn, except as provided in this Section.
- (2) **Exceptions.** The following shall not constitute a violation of Subsection (a) above:
 - a. The maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Common Council, or the firing or discharging of BB air guns or pneumatic pellet guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or legal guardian.
 - b. A person working for a firm or under a plan authorized by the Common Council to harvest wildlife pursuant to a Wisconsin Department of Natural Resources-approved Wildlife Management Program, or engaged in permissible hunting under this Section.
 - c. The discharge of a firearm by a law enforcement officer or military personnel acting within the line of duty, including but not limited to active operations, training exercises and ceremonies.

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- d. The discharge of a firearm in defense of human life or the residence or place of business of the person discharging the firearm.
 - e. The discharge of a firearm at an event, for which the party organizing or promoting such event has obtained a special permit issued by the Common Council.
- (b) **Limited Firearms Hunting Authorized.**
- (1) **Prohibitions; Wildlife Management Programs.**
 - a. Except as provided in Subsection (b)(2) below, no firearm hunting of any kind shall be allowed within the corporate boundaries of the City of Washburn to protect the public health and safety.
 - b. This provision does not apply to persons authorized by or firms hired by the City of Washburn to conduct a wildlife harvest pursuant to DNR-approved Wildlife Management Programs. The resolution must include the name of the individuals authorized to participate in the bow or firearms hunt and specific properties to be hunted upon within City limits. All hunters are subject to background checks and approval by the Chief of Police. All guidelines of the Wisconsin Department of Natural Resources' firearms or bow and arrow deer hunting regulations shall apply, as applicable. Property owner written consent and liability waivers must be on file at the City Office prior to any approval being granted.
 - c. Open hunting seasons as defined by the Wisconsin Department of Natural Resources (DNR) shall not be effective within such municipal boundaries, except as provided in Subsection (b)(2) below.
 - (2) **Limited Firearms Hunting.** Coinciding with the open hunting seasons defined by the Wisconsin Department of Natural Resources for hunting geese or deer, the Common Council may authorize the hunting of geese or deer within the City of Washburn to limit numbers. In the interest of public safety, permit conditions may include, but not be limited to, limits on numbers of authorized hunters, the use of blinds, and designation of specific locations where the hunting of geese or deer is permitted. The purpose of this hunting exception is to assist in the management of resident geese and deer numbers within the City of Washburn.
- (c) **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm in such manner that the discharge shall enter or fall within the City of Washburn in a dangerous manner.
- (d) **Bow Hunting Authorized.** Hunting with a bow and arrow or crossbow is permitted at the times and in the manner prescribed by the Wisconsin Department of Natural Resources in the City of Washburn subject to the following limitations:
- (1) **Residence Proximity Limitation.** A person may not hunt with a bow and arrow or crossbow within one hundred (100) yards from a building used for human occupancy located on another person's property, unless the owner of the property on which such building is located has authorized the hunter to hunt with a bow and arrow or crossbow within one hundred (100) yards from the building.

- (2) **Discharge Toward the Ground.** Hunting with a bow and arrow or crossbow shall only be permitted from a tree stand or elevated platform no less than twelve (12) feet above the ground, and arrow or bolts shall be discharged toward the ground.
 - (3) **Bow Hunting on Public Property.** Bow hunting shall not be permitted on municipal, school, and public properties except where specifically authorized by the public body in control of such property. City-owned public properties where hunting with a bow and arrow or crossbow is allowed shall be designated by ordinance.
 - (4) **Deer Control Special Archery Hunts.** A person in possession of a validly issued Whitetail Deer Control Hunt Special Archery Hunt Permit may discharge a bow and arrow or crossbow in strict conformity with the rules of the hunt, the conditions of the permit, and all applicable law.
- (e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City of Washburn without first obtaining a permit to do so from the Common Council pursuant to City regulations..
- (f) **Throwing, Discharging, Projecting and Shooting Prohibited.**
- (1) **Prohibition.** Except as provided in Subsection (d) above, it shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot, bow and arrow or other means within one hundred (100) yards of any inhabited dwelling or building or any public park.
 - (2) **Exceptions.** This Subsection shall not apply:
 - a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material.
 - b. To a supervised archery range approved by the Common Council.
 - c. Within the interior of a single family dwelling.
 - d. To private archery practice provided such targets are placed in front of a building or an open agricultural field in such a manner as to prevent stray arrows from crossing or entering adjacent properties.
- (g) **Paintball Discharge Limited.** No person shall on any private property without the express permission of its owner or on any public property (including but not limited to public streets, sidewalks, parks, playgrounds, schools, open spaces, recreation facilities or any other public facility and/or grounds) discharge or cause to set off a paintball gun, except as provided as follows:
- (1) **Business Exclusion.** This Subsection specifically excludes any business engaged in the operation of paintball games operating within the appropriate zoning district in which the discharge of paintball guns is carried out in an approved controlled environment.
 - (2) **Exclusion on Private Property.** This Subsection specifically excludes the operation of a paintball gun on private property contingent upon the use of such paintball device being limited to a target which is protected by an appropriate barrier from other private property and prevents damage to same. Under no circumstance shall paintball guns be permitted to be aimed at other human beings and/or animals; this exclusion applies only to an appropriate target on private property.

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(h) **Definitions.** For purposes of this Section:

- (1) **Building.** A permanent structure used for human occupancy and includes a manufactured home, as defined in Section 101.91(2), Wis. Stats.
- (2) **Firearm.** Any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.
- (3) **Paintball Device.** Any paintball gun/device which is designed or intended to expel a projectile containing paint, ink, or similar material which can cause injury to people or property.

State Law Reference: Sections 29.038 and 101.91(2), Wis. Stats.

Sec. 11-2-2 Safe Use and Transportation of Firearms and Bows.

(a) **Definitions.** In this Section:

- (1) **Aircraft** has the meaning given under Sec. 114.002(3), Wis. Stats.
- (2) **Encased** means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
- (3) **Firearm** means a weapon that acts by force of gunpowder.
- (4) **Highway** has the meaning given under Sec. 340.01(22), Wis. Stats.
- (5) **Motorboat** has the meaning given under Sec. 30.50(6), Wis. Stats.
- (6) **Roadway** has the meaning given under Sec. 340.01(54), Wis. Stats.
- (7) **Unloaded** means any of the following:
 - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
 - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
 - c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.
- (8) **Vehicle** has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.

(b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**

- (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

- (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
 - (4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
 - (5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-7.
- (c) **Exceptions.**
- (1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
 - a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
 - b. A member of the U.S. armed forces.
 - c. A member of the National Guard.
 - (2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
 - (3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

Sec. 11-2-3 Sale and Discharge of Fireworks Restricted.

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the City unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 5, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

Sec. 11-2-4 Obstructing Streets and Sidewalks Prohibited.

- (a) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the City in such a manner as to:
- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;

- (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
 - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic, except when permitted under winter parking ordinances.
- (b) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- (c) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
 - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Washburn.
 - (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
 - (4) **Sidewalk.** Any sidewalk owned or maintained by the 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. 11-2-5 Loitering Prohibited.

- (a) **Public Property Loitering Prohibited.**
- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any police officer.
 - (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (b) **Private Property Loitering Prohibited.**
- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places.
 - (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (c) **Loitering or Prowling Prohibited.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm

for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**

- (1) **Underage Persons and Intoxicants.** Pursuant to the prohibitions contained in Sec. 125.07, Wis. Stats., adopted herein by reference, no underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (2) **Permitting Loitering Prohibited.** No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.

(e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
- (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Washburn.

Sec. 11-2-6 Loud and Unnecessary Noise Prohibited.

(a) **Prohibition.**

- (1) **General Prohibition.** No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley or park or any private property.
- (2) **Occupant Responsibility.** No owner-occupant or tenant-occupant of a residential unit shall allow any loud, disturbing or unnecessary sounds or noises such as may tend to

annoy or disturb another to emanate from the unit. To prove a violation of this Subsection, it is not necessary to identify the person directly responsible for the loud, disturbing, or unnecessary sounds or noises. It is a defense to a prosecution under this Subsection if the person responsible for the sounds or noises was on the premises without the explicit or implicit permission of the owner-occupant or tenant-occupant. In this Subsection the term "owner-occupant" means the owner of a residential unit who also resides there on a full- or part-time basis and the term "tenant-occupant" means a non-owner of a residential unit who resides there under any form of tenancy on a full- or part-time basis. Both terms apply whether or not the occupant is on the premises at the time of the violation.

(b) **Stationary Noise Limits.**

(1) **Maximum Permissible Sound Levels.**

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

Zone	Noise Rating-Daytime (7:00 a.m.-10:00 p.m.)	Noise Rating-Nighttime
Residential	70 db	60 db
Commercial	70 db	70 db
Industrial	75 db	75 db

- b. Ambient noise is the all-encompassing noise associated with a given source, usually being a composite of sounds with many sources near and far, but excluding the noise source being measured. Ambient noise is a factor and the subject noise shall exceed the ambient noise by 5 db in any octave band to be designated excessive.
- c. Pure tones and impulsive noises are factors. Five noise rating numbers shall be taken from the table in Subsection a. above, if the subject noise consists primarily of a pure tone or if it is impulsive in character.
- (2) **Construction Noise.** Construction equipment in any zone may be operated between the hours of 7:00 a.m. and 7:00 p.m. provided that said equipment does not exceed a maximum sound level of 80 db(a) measured at the property line of the location at which said equipment is in use.
- (3) **Noise in Residential Districts.** In Residential Zones, the person in violation of this Section shall be ordered to reduce the sound pressure to acceptable levels immediately by the monitoring officer.
- (4) **Operation of Certain Equipment.** Lawnmowers, chainsaws, powered garden equipment, electric insect killing/repelling devices, and other non-construction maintenance equipment shall be operated only during the hours between 7:00 a.m. and

- 9:00 p.m. unless within the specified noise levels measured at the property line of the location at which said equipment is in use.
- (5) **Exemptions.** Operations of emergency equipment shall be exempt from this Chapter. Snowblowers not operated on a commercial basis shall be exempt from this Chapter when used to gain access to a City street. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City.
 - (6) **Methods of Measuring Noise.**
 - a. Equipment. Noise measurement shall be made with a sound level meter.
 - b. Location of Noise Meter. Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.
 - (7) **Appeals.** The 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 Chapter for existing industries.
- (c) **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 Washburn 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/she 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 9:00 a.m. or after 9:00 p.m. Nor shall a permit be granted to any one 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. 11-2-7 Disorderly Conduct.

- (a) **Disorderly Conduct Prohibited.** No person within the City of Washburn shall:
- (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person.
 - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation.

- (b) **Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the City, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his/her person.

Sec. 11-2-8 Unauthorized Presence on School Property.

(a) **Unauthorized Presence.**

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

(b) **Disorderly Conduct on Public School Property.**

- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
- (3) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."

- (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a City summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.
- (c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the City of Washburn or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.
- (d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
 - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the City of Washburn.

Sec. 11-2-9 Truancy.

- (a) **Truancy.**
- (1) It shall be unlawful for any minor person between the ages of six (6) and eighteen (18) to be truant as defined in Subsection (b)(4).
 - (2) Any minor person who violates this Section shall, upon conviction thereof, forfeit not more than Twenty-five Dollars (\$25.00) for a first conviction, with a Twenty-five Dollars (\$25.00) incremental increase for each subsequent conviction, not to exceed Five Hundred Dollars (\$500.00), for all violations committed during a school year, together with the costs of prosecution.
- (b) **Contributing to Truancy.**
- (1) Except as provided in Subsection (b)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (b)(4), of a child shall be subject to a forfeiture pursuant to Section 1-1-7.
 - (2) Subsection (b)(1) above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.

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- (3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.
- (4) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats.

(c) Parent or Guardian Liability for Truancy.

- (1) Unless the child is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a child who is between the ages of six (6) and eighteen (18) years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age.
- (2) a. A person found to have violated Subsection (c)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1-1-7.
b. Subsection (c)(2)a above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection (c)(1) because of the disobedience of the child.

Sec. 11-2-10 Failure to Obey Lawful Order.

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

Sec. 11-2-11 E911 Emergency Telephone Line Abuse Prohibited.

- (a) **Statement of Purpose.** False E911 telephone calls are a threat to public health, safety and welfare in the City of Washburn. Each false E911 call requires a response by emergency response personnel, creates unnecessary expense for the City, and harms the ability of emergency response personnel to respond to legitimate emergencies.
- (b) **Definitions.** For purposes of this Section, an "emergency" exists when a person reasonably believes that an immediate response by public safety personnel is essential due

to the risk or actual occurrence of death or bodily harm; property damage; or any other situation which reasonably requires the immediate response of public safety personnel.

(c) **Intentionally False E911 Calls Prohibited.**

- (1) No person shall use the E911 emergency telephone number system for any purpose other than to report an emergency.
- (2) No person shall use the E911 system to report an emergency knowing that the fact situation which he/she reports does not exist.
- (3) No person shall call the E911 emergency telephone number system and hang up without reporting an emergency, if, in fact, no emergency exists.
- (4) No parent, legal guardian or other adult having the care and custody of a person under eighteen (18) years of age shall permit or by insufficient control allow such person to violate the provisions of this Section.
- (5) Any person violating this Section regarding intentional false E911 calls shall forfeit an amount as prescribed by Section 1-1-7.

(d) **Unintentional E911 Calls.**

- (1) Unintentional E911 calls made due to human error, equipment malfunctions, or equipment programming shall be the joint and several responsibility of the person making the unintentional E911 call and the owner, tenant, business occupant, occupant or person in control of a premises or telephone equipment, including wireless cellphones, from which such false E911 calls originate.
- (2) The person making the unintentional E911 call, or the owner, tenant, business occupant, occupant or person in control of a premises or telephone equipment, including wireless cellphones, from which such false E911 calls originate shall be issued a citation and be subject to a forfeiture as provided in Section 1-1-7. No citation shall be issued nor forfeiture assessed for the first two (2) false E911 calls in a calendar year (January 1 – December 31).

Sec. 11-2-12 Failure to Obey Harbor Commission Rules.

- (a) It shall be unlawful for any person to violate rules duly adopted by the City of Washburn Board of Harbor Commissioners.
- (b) Any person who violates this Section shall, upon conviction thereof, forfeit not more than Fifty Dollars (\$50.00) for a first conviction, with a Fifty Dollar (\$50.00) incremental increase for each subsequent conviction, not to exceed Five Hundred Dollars (\$500.00).

CHAPTER 3

Offenses Against Property

11-3-1	Destruction of Property Prohibited
11-3-2	Littering Prohibited
11-3-3	Abandoned Refrigerators Prohibited
11-3-4	Theft of Library Material
11-3-5	Cemetery Regulations
11-3-6	Malicious Mischief
11-3-7	Trespassing

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 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 Two Thousand Five Hundred Dollars (\$2,500.00).
- (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 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) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Common Council or Director of Public Works pursuant to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.
- (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 THEFT OF LIBRARY MATERIAL.

- (a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:
- (1) **Archives.** A place in which public or institutional records are systematically preserved.
 - (2) **Library.** Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the City of Washburn and school libraries.
 - (3) **Library Material.** Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audio-visual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or

printed materials, regardless of physical form or characteristics, belonging to, on loan to or otherwise in the custody of a library.

- (b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and 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. 11-3-5 CEMETERY REGULATIONS.

- (a) **Purpose and Definition.** In order to protect cemetery areas within the City from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the City of Washburn.
- (b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.

(c) **Specific Regulations.**

- (1) **Disturbing Cemetery Property.** No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.
- (2) **Protection of Cemetery Property.** No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery.
- (3) **Motor Vehicles.** Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.
- (4) **Speed Limit.** No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.
- (5) **Parking.** No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
- (6) **Littering Prohibited.** No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.
- (7) **Pets.** Pets, including animals of any species, are prohibited in any cemetery without the cemetery owner's consent.
- (8) **Sound Devices.** No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
- (9) **Authorized Notices.** No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- (10) **Loitering Prohibited.** No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.
- (11) **Alcoholic Beverages Prohibited.** No person shall consume or have in his possession any open container containing an alcohol beverage upon any

cemetery property within the City unless the property is specifically named as being part of a licensed premises.

- (12) In-Line Skates/Play Vehicles Prohibited. No person shall operate or make use of in-line skates or play vehicles upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (13) Presence After Hours Prohibited. No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

SEC. 11-3-6 MALICIOUS MISCHIEF.

Each person who shall, within the City, willfully, maliciously or wantonly break the glass of any street lamp, window or skylight, or extinguish any lamp, or destroy, remove, throw down or injure any fence or other enclosure on land belonging to or occupied by another, or interfere with any gate or bars in any such enclosure or destroy, injure or carry away any tree or plant, or tear down, mutilate, deface or injure any building, signboard, fence or railing, being the property of another, or who shall willfully, maliciously or wantonly injure, destroy or remove any ornamental or useful tree or plant of wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places at any time.

SEC. 11-3-7 TRESPASSING.

It shall be unlawful for any person to enter and remain on or in property after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, person in lawful possession, any law enforcement officer, any public employee whose duty it is to supervise the use and maintenance of the property, or by any sign or message posted at the request of one of the above.

CHAPTER 4

Offenses Involving Alcoholic Beverages

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

SEC. 11-4-1 OUTSIDE CONSUMPTION.

(a) Alcoholic Beverages in Public Areas.

- (1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the City except as licensed premises.
- (2) Private Property Held Out For Public Use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.
- (3) 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.
- (4) 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, 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. 11-4-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.

- (a) **Sales of Alcohol Beverages to Underage Persons.**
 - (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age, 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. Stats.
- (c) **Sale of Alcohol Beverages to Intoxicated Persons.**
 - (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
 - (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Section 125.07, Wis. Stats.

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

- (a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcohol

beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:

- (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
- (2) An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing edibles or beverages other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
- (3) Hotels, drug stores, grocery stores, bowling alleys, cars operated by any railroad, regularly established athletic fields, stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d, Wis. Stats., which are owned by a county or municipality.
- (4) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
- (5) Ski chalets, golf clubhouses and private tennis clubs.
- (6) Premises operated under both a Class "B" fermented malt beverage or "Class B" alcohol beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a Class "B" or "Class B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
- (7) An underage person who enters or remains on a Class "B" or "Class B" premises for the purpose of transacting business at an auction or market as defined in Sec. 125.32(4)(b)1, Wis. Stats., if the person does not enter or remain in a room where alcohol beverages are sold or furnished.
- (8) An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. An underage person may enter and remain on Class "B" alcoholic beverage or "Class B" fermented malt beverage premises under this Subsection only if the municipality which issued the Class "B" fermented malt beverage or "Class B" alcoholic beverage license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the Class "B" alcoholic beverage or "Class B" fermented malt beverage licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

- (b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than Five Hundred Dollars (\$500.00).

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

- (a) Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages.
 - (2) Knowingly possesses or consumes intoxicating liquor.
 - (3) Enters or is on licensed premises in violation of Section 11-4-3(a).
 - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
 - (5) 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.
 - (6) Makes, alters or duplicates an official identification card.
 - (7) Presents false information to an issuing officer in applying for an official identification.
 - (8) Intentionally carries an identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the documentation is false.
 - (9) 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 documentation is false.
- (b) Any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverage is guilty of a violation.
- (c) Any person violating Subsections (a) or (b) is subject to the following penalties:
- (1) For a first violation, a forfeiture of not more than Fifty Dollars (\$50.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than One Hundred Dollars (\$100.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
 - (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not more than One Hundred Fifty Dollars (\$150.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
- (d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the 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. 11-4-5 DEFENSE OF SELLERS.

- (a) **Defenses.** Proof of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
 - (1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she had attained the legal drinking age.
 - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
 - (3) That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
- (b) **Book Kept by Licensees and Permittees.** Every retail alcohol beverage licensee or permittee shall cause a book to be kept for the purpose of this Subsection. The licensee or permittee or his or her employee shall require any person who has shown documentary proof that he or she has attained the legal drinking age to sign the book if the person's age is in question. The book shall show the date of the purchase of the alcohol beverages, the identification used in making the purchase, the address of the purchaser and the purchaser's signature.

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

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

- (a) (1) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.08 or Sec. 343.50, Wis. Stats., who makes, alters or duplicates an official identification card, who provides an official identifi-

- cation card to an underage person or who knowingly provides other documentation to any underage person purporting to show that the underage person has attained the legal drinking age may be subject to a forfeiture of not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) upon conviction.
- (2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or imprisoned not more than ten (10) days or both.
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-4(c) or (d):
- (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
 - (2) Makes, alters or duplicates an official identification card.
 - (3) Presents false information to an issuing officer in applying for an official identification card.

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

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

- (a) In this Subsection:
- (1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
 - (2) "School" means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
 - (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
 - (4) "School premises" means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
- (1) On school premises;
 - (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle;
or
 - (3) While participating in a school-sponsored activity.
- (c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances.
- (d) A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that Sec. 48.344, Wis. Stats., and Section 11-4-4(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

Cross Reference: Section 11-5-5.

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

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

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

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

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the 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 5

Offenses by Juveniles

11-5-1	Curfew
11-5-2	Possession of Controlled Substances by Juveniles
11-5-3	Petty Theft by Juveniles
11-5-4	Receiving Stolen Goods
11-5-5	City Jurisdiction Over Persons 14 through 16 Years of Age
11-5-6	Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited
11-5-7	Use of Cigarettes and Tobacco Products Prohibited
11-5-8	Enforcement and Penalties

SEC. 11-5-1 CURFEW.

- (a) It shall be unlawful for any minor ages fourteen (14) to eighteen (18) to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places after the hour of 11:00 p.m. It shall be unlawful for any minor age thirteen (13) and under to loiter, idle, wander, stroll or play upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places after the hour of 10:00 p.m.
- (b) The provisions of this Section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor.
- (c) It shall be unlawful for the parent, guardian or other adult person having the care and custody of a child ages fourteen (14) to eighteen (18) to knowingly permit the child to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places after the hour of 11:00 p.m. It shall be unlawful for the parent, guardian or other adult person having the care and custody of a child under the age of thirteen (13) years to knowingly permit the child to loiter, idle, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places after the hour of 10:00 p.m.
- (d) The first time a minor, parent, guardian or person having legal custody of a minor is detained by a law enforcement officer serving the City, 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.

- (e) (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. 11-5-2 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, Ch. 961, Wis. Stats.

SEC. 11-5-3 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. 11-5-4 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. 11-5-5 CITY JURISDICTION OVER PERSONS 14 THROUGH 16 YEARS OF AGE.

- (a) **Adoption of State Statutes.** Section 48.17(2), Ch. 938 and Ch. 990.01(3), Wis. Stats., are hereby adopted and by reference made a part of this Chapter as if fully set forth herein.
- (b) **Definition of an Adult.** An "adult" means a person who has attained the age of eighteen (18) years, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state/federal criminal law or municipal ordinance, "adult" means a person who has attained the age of seventeen (17) years.
- (c) **Provisions of Ordinance Applicable to Persons 14 through 16 Years of Age.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 14 through 16 years of age may be brought on behalf of the City of Washburn and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.

- (d) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (e) **Additional Prohibited Acts.** In addition to any other provision of the City of Washburn Code of Ordinances, no person age 14 through 16 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.
- (f) **Penalty for Violations of Subsection (e).** Any person 14 through 16 years of age who shall violate the provisions of Subsection (e) 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 11-4-7.

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

- (a) **Definition.** In this Section, "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance, as defined in Ch. 161, Wis. Stats., in violation of this Section. It includes but is not limited to:
 - (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
 - (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
 - (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
 - (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
 - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
 - (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
 - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
 - (9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
 - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

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

- (c) **Prohibited Uses.**
- (1) Possession of Drug Paraphernalia. No person who is under eighteen (18) years of age may use, or possess with the sole 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 Subsection.
 - (2) Manufacture or Delivery of Drug Paraphernalia. No person who is under eighteen (18) years of age may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely 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 Subsection.
 - (3) Delivery of Drug Paraphernalia By a Minor to Minor. Any person who is under eighteen (18) years of age, who violates Subsection (3) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
 - (4) Exemption. This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 161, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall, upon conviction, be subject to disposition under Section 48.344, Wis. Stats.

SEC. 11-5-7 USE OF CIGARETTES AND TOBACCO PRODUCTS PROHIBITED.

- (a) The statutory provisions of Sec. 48.983, Wis. Stats., are adopted and by reference made a part of this Section as if fully set forth herein, and is restated in Subsections to include:
- (1) Cigarette. Has the meaning giving in Sec. 139.30(1), Wis. Stats.
 - (2) Law Enforcement Officer. Has the meaning given in Sec. 30.50(4s), Wis. Stats.
 - (3) Tobacco Products. Has the meaning given in Sec. 139.75(12) Wis. Stats.
- (b) Except as provided in the subsequent Subsection, no child may do any of the following:
- (1) Buy or attempt to buy any cigarette or tobacco product.
 - (2) Falsely present his or her age for the purpose of receiving any cigarette or tobacco product.
 - (3) Possess any cigarette or tobacco product.
- (c) A child may purchase or possess cigarette or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Sec. 134.65(1), Wis. Stats.
- (d) A law enforcement officer shall seize any cigarette or tobacco products involved in any violation of this Section committed in his or her presence.

SEC. 11-5-8 ENFORCEMENT AND PENALTIES.

- (a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-7, juveniles may be cited by the citation process on a form approved by the City Attorney.

- (b) **Penalties.** Violations of Sections 11-5-2 through 11-5-7 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.

Title 11 ► Chapter 6

Public Nuisances

11-6-1	Public Nuisances Prohibited
11-6-2	Public Nuisances Defined
11-6-3	Public Nuisances Affecting Health
11-6-4	Public Nuisances Offending Morals and Decency
11-6-5	Public Nuisances Affecting Peace and Safety
11-6-6	Distribution or Sale of Substances Affecting Health
11-6-7	Abatement of Public Nuisances
11-6-8	Cost of Abatement

Sec. 11-6-1 Public Nuisances Prohibited.

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

Sec. 11-6-2 Public Nuisance Defined.

A public nuisance is a thing, act, occupation, condition, or use of property which, taking into account the number of people affected, the location of the operation or property, the degree or character of the injury inflicted or the right impinged upon, the reasonableness of the use of the property, the nature of the business maintained, the proximity of dwellings, and the nature of the surrounding neighborhood shall continue for such a length of time as to:

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

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

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

- (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, injure or inconvenience the health of any appreciable number of persons within the City of Washburn.
- (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 of Washburn.
- (j) **Animals at Large.** All animals running at large.
- (k) **Accumulations of Refuse.** Accumulations including but not limited to old cans, lumber, elm firewood, household appliances, tires, water heaters, televisions, laboratory and plumbing parts, household goods and other similarly situated and characterized materials.
- (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 which substantially interferes with the comfortable enjoyment of life, health, or safety of others.

Sec. 11-6-4 Pubic Nuisances Offending Morals and Decency.

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

- (a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) **Gambling Devices.** All gambling devices and slot machines, except as permitted by state law.
- (c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the City of Washburn.
- (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 of Washburn.

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

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

- (a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the City relating to materials and manner of construction of buildings and structures within the City of Washburn.
- (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 of Washburn.
- (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 of Washburn.
- (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) **Erosion.** Any erosion of land affecting or threatening public infrastructure.

Sec. 11-6-6 Distribution or Sale of Substances Affecting Health.

- (a) **Findings.** The Common Council of the City of Washburn finds as follows:
 - (1) **Public Health Problems.** Synthetic drugs have become a serious public health problem in the nation, state and region.
 - (2) **Medical Issues.** The use of synthetic marijuana can result in headaches, vomiting, confusion, agitation, anxiety, aggressive behavior, paranoia, inability to speak, dystonia, short-term memory deficits, seizures, hallucination, loss of consciousness, and death. Synthetic marijuana can have long-term destabilizing emotional effects.
 - (3) **Associated Community Costs.** The local sale of synthetic drugs, including synthetic marijuana, can create additional costs for health care providers, law enforcement, the court system, and the business community.
- (b) **Public Nuisance Declared.** It is specifically declared a public nuisance to maintain a place of business where any substance, legal or illegal, that causes or contributes to causing any immediate, serious, negative health effect, is sold or distributed.

- (c) **Exceptions.**
- (1) **Prescription Drugs.** Any prescription drug, properly prescribed and distributed by a person lawfully permitted to do so.
 - (2) **Legal Alcoholic Beverages.** Any alcoholic beverage, sold or distributed pursuant to Chapter 125, Wis. Stats., or any ordinance adopted thereunder.
- (d) **Definitions.** For the purposes of this Section 11-6-6, the following words and phrases shall have the meaning hereinafter ascribed to them:
- (1) **Causes.** A substance causes or contributes to causing an immediate negative health effect if it is a probable contributing factor in the etiology of the health effect, even if it is not the only contributing factor.
 - (2) **Immediate.** A negative health effect is immediate if it occurs within twenty-four (24) hours of the ingestion (by any means) of the substance.
 - (3) **Serious Negative Health Effect.** Serious, negative health effects include, but are not limited to, the non-trivial occurrence of headaches, vomiting, confusion, agitation, anxiety, aggressive behavior, paranoia, inability to speak, dystonia, short-term memory deficits, seizures, hallucination, loss of consciousness, and death.
- (e) **Procedures.** For any public nuisance under this Section, the following procedures shall be used:
- (1) **Abatement Warning Notice; Appeal.** Any person creating a public nuisance shall be given a written warning, requiring the person to abate the nuisance within fifteen (15) calendar days. Any person receiving a warning under this Subsection may appeal the warning to the Common Council by filing a written notice of appeal with the City Administrator-Clerk no later than 4:00 p.m. five (5) business days after the date of receipt of the notice. No specific form of notice of appeal shall be required. Upon the filing of a notice of appeal, the requirement to abate the nuisance shall be stayed until the Common Council has conducted a hearing on the appeal.
 - (2) **Required Abatement; Notice; Appeal.** Any person creating a public nuisance no fewer than fifteen (15) days after receiving a warning under Subsection (e)(1) above, or if the warning has been appealed and upheld by the Common Council no sooner than the day after the Common Council decision on the appeal, shall be required, upon service of a citation, to abate the public nuisance immediately. Any person receiving a citation under this Subsection may appeal the citation to the Common Council by filing a written notice appeal with the City Administrator-Clerk no later than 4:00 p.m. two (2) business days after the date of receipt of the citation. No specific form of notice of appeal shall be required. The filing of a notice of appeal shall not stay the requirement to abate the nuisance.
 - (3) **Times of Notices.** A warning under Subsection (e)(1) may be given based upon any activity creating a public nuisance before of after the effective date of this Section. No action shall be taken under Subsection (e)(2) except upon the creation of a public nuisance after the effective date of this Section.

(4) **Citation; Enforcement; Penalty.**

- a. A citation under Subsection (e)(2) requiring the immediate abatement of a public nuisance may be enforced by action in circuit court pursuant to Section 823.02, Wis. Stats.
- b. In addition to action taken under Subsection (e)(4), any person creating a public nuisance who has received a citation under Subsection (e)(2) shall pay a forfeiture of no less than Five Hundred Dollars (\$500.00) and no more than One Thousand Dollars (\$1,000.00) for each day that the nuisance persists, plus court costs and reasonable attorney fees.

Sec. 11-6-7 Abatement of Public Nuisances.

- (a) **Enforcement.** The Chief of Police, Director of Public Works, Zoning Administrator, Fire Chief, and the Common Council 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 is satisfied 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 officer may 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/she 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). In this Subsection, if the nuisance to be abated is an operation on or use of property which is of limited duration but subject to repetition, the abatement order may require the person subject to the order to not repeat the operation or use that constitutes the nuisance.
- (d) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the City of Washburn or its officials in accordance with the laws of the State of Wisconsin.

Sec. 11-6-8 Cost of Abatement.

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the

City of Washburn 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.