

TITLE XIII: GENERAL OFFENSES

Chapter

**130. GENERAL OFFENSES; PUBLIC PEACE AND GOOD
ORDER**

CHAPTER 130: GENERAL OFFENSES; PUBLIC PEACE AND GOOD ORDER

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Alcoholic Beverage Demerit Point System, see Ch. 110, Appendix A

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GENERAL PROVISIONS

§ 130.001 OFFENSES AGAINST STATE; LAWS SUBJECT TO FORFEITURE UNDER § 10.99.

The following statutes, defining offenses against the peace and good order of the state, are adopted by reference to define offenses against the peace and good order of the city, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under § 10.99 of this municipal code:

<i>Wis. Stats. §</i>	<i>Subject</i>
939.22	Words and Phrases Defined
940.20	Battery
941.10	Negligent Handling of Burning Materials
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<i>Wis. Stats. §</i>	<i>Subject</i>
941.20	Reckless Use of Weapon
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941.24	Possession of Switchblade Knife
943.01(1)	Criminal Damage to Property (Less than \$1,000)
943.06	Molotov Cocktails
943.13	Trespass to Land
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943.50	Shoplifting
944.20	Lewd and Lascivious Behavior
944.21	Lewd, Obscene or Indecent Matter, Pictures and Performances
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944.30	Prostitution
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945.01	Definitions Relating to Gambling
945.02	Gambling
945.03	Commercial Gambling
945.04	Permitting Premises to Be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42	Escape
946.44	Assisting or Permitting Escape
946.65	Obstructing Justice
946.70	Impersonating Peace Officer

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<i>Wis. Stats. §</i>	<i>Subject</i>
946.72	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.015	Bomb Scares
947.06	Unlawful Assemblies
951.01-951.15	Crimes Against Animals

(1989 Code, § 9.939.22 to 9.951.16)

*WEAPONS AND FIREWORKS***§ 130.015 USE OF FIREARMS.**

No person, except an authorized police officer, shall discharge any firearm within the city or have any firearm in his or her possession within the city, unless it is unloaded and knocked down and enclosed in a carrying case or other suitable container; provided, the Council may issue permits to an organized gun club to engage in target practice within the city at times and places designated by the Chief of Police. (1989 Code, § 9.02) Penalty, see § 130.999

§ 130.016 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the city. (1989 Code, § 9.03) Penalty, see § 130.999

§ 130.017 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

Wis. Stats. § 167.10, regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this section as though set forth in full. (1989 Code, § 9.04)

NUISANCES

§ 130.030 LOUD AND UNNECESSARY NOISE PROHIBITED.

(A) *Prohibited.* 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 residence.

(B) *Operation of motor vehicles.* No person shall operate a motor vehicle so as to cause the tires thereof to squeal, the horn to blow excessively or the motor to race excessively.
(1989 Code, § 9.06) Penalty, see § 130.999

§ 130.031 DYNAMIC BRAKING DEVICES.

(A) *Definition.* A ***DYNAMIC BRAKING DEVICE*** (commonly referred to as a Jacobs brake, engine brake or compression brake) means a device primarily on trucks for the conversion of the engine from an internal combustion system to an air compression system for the purpose of braking without the use of wheel brakes.

(B) *Use prohibited.* It is unlawful for any person to operate any motor vehicle with a dynamic braking device engaged, except for the aversion of imminent danger within the city limits.
(Ord. 606, passed 9-7-1999) Penalty, see § 130.999

§ 130.032 KEEPING OF ANIMALS AND POULTRY.

No person having in his or her possession or under his or her control any animal or fowl shall allow the same to run at large within the city. No person shall keep within the city any animals, fowl or bees, except domesticated pets, without permit issued by the Public Property and Health Committee. In issuing a permit for other animals such as horses, cows, pigs, pigeons and bees, the Committee shall consider the number of such animals expected to be kept, the location and the likelihood of a public or private nuisance being created.
(1989 Code, § 9.08) Penalty, see § 130.999

§ 130.033 JUNK, RECREATIONAL EQUIPMENT AND FIREWOOD.

(A) *Public nuisances declared.* The following are hereby declared to be public nuisances, wherever they may be found within the city:

- (1) Any junk stored contrary to division (C) below;
- (2) Any recreational equipment stored contrary to division (D) below; and

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(3) Any firewood used or stored contrary to division (E) below.

(B) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

IN THE OPEN. Land which may be viewed from public streets or adjoining properties.

JUNK. Worn out or discarded material of little or no value, including but not limited to household appliances or parts thereof, machinery and equipment or parts thereof, vehicles or parts thereof, tools, discarded building materials or any other unsightly debris, the accumulation of which has an adverse affect upon the neighborhood or city property values, health, safety or general welfare.

RECREATIONAL EQUIPMENT. Boats, canoes, boat and utility trailers, mobile homes, campers, off-highway vehicles and snowmobiles.

(C) Storage of junk prohibited. No person, except a licensed junk dealer, shall accumulate, store or allow any junk outside of any building, on any public or private real estate located in the city. Notwithstanding the foregoing sentence, automobile body shops or repair facilities may keep a wrecked or inoperable motor vehicle outside of their premises for a period of time not to exceed 90 days.

(D) Storage of recreational equipment regulated. No person shall store any recreational equipment on any street, right-of-way or within the front setback for a period of more than 48 hours.

(E) Storage of firewood. No person shall store firewood on any residential premises except for use on the premises. No firewood may be stored within the front setback.

(F) Inoperable motor vehicles. The Police Department shall cause any inoperable motor vehicle found upon public property within the city to be removed to a junk or salvage yard and stored there for 10 days, at the end of which time the junk or salvage yard shall dispose of the vehicle, unless claimed by the owner thereof. The Police Department shall notify the owner of any inoperable motor vehicle placed or stored in the open upon private property to remove the vehicle within 10 days. If the vehicle is not removed within that time, the Department shall cause the vehicle to be removed to a junk or salvage yard and the cost of removal shall be charged to the property as a special tax.

(G) Variance.

(1) Application. In the event any person shall encounter a great practical difficulty in complying with the provisions of divisions **(D)** or **(E)**, above, because of lot size, location of buildings, or topography, the person may file an application for a variance with the Zoning Administrator on a form provided by the Zoning Administrator.

(2) Limitations. Any variance granted by the Zoning Administrator shall be limited as follows:

(a) *Recreational vehicles.* Recreational vehicles may be parked in the driveway within the front setback between May 1 and September 15 of each year, provided that the sidewalk is not blocked.

(b) *Firewood.* Firewood may be neatly stacked within the front setback between August 1 and June 1 of the next year.

(3) *Grant or denial of application.* The Zoning Administrator shall review the application and view the premises. He or she shall grant or deny the variance in accordance with the provisions of this division.

(4) *Appeal.* Any person aggrieved by any determination of the Zoning Administrator under this division may file a written appeal with the Board of Appeals within 30 days.

(H) *Issuance of citations; action to abate.* Whenever a police officer shall find junk or recreation equipment accumulated, stored or remaining in the open upon any property within the city contrary to the provisions of divisions (C) and (D) above, or firewood stored contrary to division (E) above, the officer shall notify the owner of the property on which the junk, recreation equipment or firewood is located of the violation of this section. If the junk, recreation equipment or firewood is not removed within 10 days, the officer shall cause a citation to be issued to the property owner or the occupant of the property upon which the junk, recreation equipment or firewood is located. In addition, action to abate the nuisance shall be commenced as provided in § 92.15 of this code.

(Ord. 683, passed 10-4-2005) Penalty, see § 130.999

§ 130.034 ABANDONED VEHICLES.

(A) *Vehicle abandonment prohibited.* No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or public or private property, for such time and under such circumstances as to cause the vehicle reasonably to appear to have been abandoned. When any such vehicle has been left unattended on any city street or highway or on any public or private property within the city without the permission of the owner for more than 48 hours, the vehicle is deemed abandoned and constitutes a public nuisance.

(B) *Removal and impoundment of abandoned vehicles.* Any vehicle in violation of this section shall be impounded until lawfully claimed or disposed of under division (C).

(C) *Disposal of abandoned vehicles.*

(1) (a) If the Chief of Police or his or her duly authorized representative determines that the value of the abandoned vehicle exceeds \$100, he or she shall notify the owner and lienholders of record by certified mail that the vehicle has been deemed abandoned and impounded by the city and may be reclaimed within 15 days upon payment of accrued towing, storage and notice charges, and if not so reclaimed shall be sold.

(b) If an abandoned vehicle determined to exceed \$100 in value is not reclaimed within the period and under the conditions as provided above, it may be sold at private sale.

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(c) After deducting the expense of impoundment and sale, the balance of the proceeds, if any, shall be paid into the city treasury.

(2) Any abandoned vehicle which is determined by the Chief of Police or his or her duly authorized representative to have a value of less than \$100 may be disposed of by direct sale to a licensed salvage dealer upon determination that the vehicle is not reported stolen.

(D) *Owner responsible for impoundment and sale costs.* The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered for the sale of the vehicle may be recovered in a civil action by the city against the owner.

(E) *Notice of sale or disposition.* Within 5 days after the sale or disposal of a vehicle as provided in division (C)(1) or (C)(2), the Chief of Police or his or her duly authorized representative shall advise the Wisconsin Department of Transportation, Division of Motor Vehicles, of the sale or disposition on a form supplied by the Division. A copy of the form shall also be given to the purchaser of the vehicle. A copy shall also be retained on file in the city.
(1989 Code, § 9.10)

§ 130.035 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 private property or upon the surface of any body of water within the city.

(1989 Code, § 9.11) Penalty, see § 130.999

§ 130.036 RADIO OR TELEVISION INTERFERENCE PROHIBITED.

No person shall operate any machine or equipment which causes interference with radio or television reception, when such interference can be prevented by repairs, adjustments, the installation of corrective appliances or other practicable alterations, at a reasonable expense.

(1989 Code, § 9.12) Penalty, see § 130.999

DANGERS TO PROPERTY

§ 130.050 BURNING OF GRASS AND TRASH RESTRICTED.

(A) *General prohibition.* Except as expressly allowed by this section, no person shall cause or permit the outdoor burning of any material within the corporate boundaries of the city.

(B) *Recreational fires.* Recreational fires, defined as any fire, such as campfire, located at a single-family or 2-family private residence for the purpose of recreation and personal enjoyment, are exempt from this section so long as the fires are started and tended in compliance with the following requirements:

(1) No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers or other burning materials to be carried by the wind to any building or other flammable materials;

(2) Only clean, dry and untreated wood may be burned. The following materials for recreational fires are expressly prohibited: Rubbish, garbage, recyclable items, trash, yard waste, any materials made of or coated with rubber, plastic, leather, or petroleum-based materials, combustible or flammable liquids;

(3) Adequate fire suppression equipment, such as shovels, fire extinguishers, or water hoses or containers shall be present to extinguish or control fires at all times;

(4) All recreational fires shall be attended at all times by at least 1 responsible person, age 16 or older, from the ignition of the fire until the fire is completely extinguished;

(5) Any party who has started or maintains a recreational fire shall pay any and all costs incurred by the Fire Department for any service related call as a result of a recreational fire not in compliance with this chapter; and

(6) Smoke from any recreational fire shall not create a nuisance for neighboring property owners.

(C) *Burning leaves.* The burning of dry leaves is exempt from this section so long as the fires are started and tended in compliance with the following requirements:

(1) No leaf fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers or other burning materials to be carried by the wind to any building or other flammable materials;

(2) Adequate fire suppression equipment, such as shovels, fire extinguishers, or water hoses or containers shall be present to extinguish or control fires at all times;

(3) All leaf fires shall be attended at all times by at least 1 responsible person, age 16 or older, from the ignition of the fire until the fire is completely extinguished;

(4) Any party who has started or maintains a leaf fire shall pay any and all costs incurred by the Fire Department for any service related call as a result of a leaf fire not in compliance with this section;

(5) Smoke from leaf fires shall not create a nuisance for neighboring property owners; and

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(6) No leaf fires shall be started prior to 8:00 a.m. All leaf fires shall be completely extinguished by 6:00 p.m.

(D) *Outdoor cooking fire.* Open or closed cooking grills are exempt from this section, except as follows:

(1) For all dwellings more than 1 story in height, the use of any propane, charcoal, wood or gas cooking device is prohibited above the first floor occupancy.

(2) Smoke from cooking fires shall not create a nuisance for neighboring property owners.

(E) *Commercial and industrial districts.* Burning in commercial and industrial districts is exempt from this section so long as the fires are started and tended in compliance with the following requirements:

(1) No fire in a commercial or industrial district shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers or other burning materials to be carried by the wind to any building or other flammable materials;

(2) Only clean, dry and untreated wood and paper products may be burned;

(3) Adequate fire suppression equipment, such as shovels, fire extinguishers, or water hoses or containers shall be present to extinguish or control fires at all times;

(4) All fires in commercial or industrial districts shall be attended at all times by at least 1 responsible person, age 16 or older, from the ignition of the fire until the fire is completely extinguished;

(5) Any party who has started or maintains a fire in a commercial or industrial district shall pay any and all costs incurred by the Fire Department for any service related call as a result of a fire not in compliance with this chapter;

(6) No fire in a commercial or industrial district shall be started prior to 8:00 a.m. All fires in a commercial or industrial district shall be completely extinguished by 6:00 p.m.; and

(7) Smoke from any fire in a commercial or industrial district shall not create a nuisance for neighboring property owners.

(F) *Outdoor furnaces.* Installation and operation of outdoor furnaces shall be permitted within the corporate boundaries of the city, subject to the following:

(1) *OUTDOOR FURNACE* means any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors for the primary purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source.

(2) Regulations applicable to outdoor furnaces:

(a) All outdoor furnaces shall be installed, operated, and maintained in strict conformance with manufacturer's instructions, and the regulations promulgated hereunder shall apply unless the manufacturer's instructions are stricter than the regulations promulgated hereunder, in which case the manufacturer's instructions shall apply.

(b) Only clean, dry, untreated wood may be burned in an outside furnace.

(c) Outdoor furnaces shall be located in compliance with the city's zoning ordinance, as that ordinance applies to accessory buildings.

(d) No person shall install, use or maintain an outdoor furnace without first having obtained a permit from the Zoning Administrator. Permit fees shall be those established for zoning permits.

(e) Outdoor furnaces may be operated only from October 1 through April 30 of each year.

(f) The lawful use of a nonconforming outdoor furnace in existence at the time of the adoption of this section may be continued. However, all existing nonconforming outdoor furnaces shall be brought into compliance with all manufacturer's requirements and shall be subject to division (F)(2)(b) above within 30 days of the adoption of this section.

(G) *Kilns.* Outdoor kilns for the firing of pottery, located in a nonresidential area, are exempt from this section.

(H) *Special permits.* Outdoor fires for ceremonial or other purposes may be kindled and maintained pursuant to a permit issued by the Fire Chief. Requests for such permits shall state the location, purpose, date and approximate size of the fire for which the permit is sought. There shall be no charge for the application or issuance of such a permit.

(I) *Exemptions.* This section shall not apply to a fire kindled and maintained by:

(1) The Fire Department for training purposes; or

(2) The city, at a site designated by the city for the purpose of burning leaves and yard debris collected by the city.

(J) *Roads and sidewalks.* Notwithstanding any other provision of this section, no material whatsoever may be burned upon any road, street, alley, curb, gutter or sidewalk within the corporate boundaries of the city.

(1989 Code, § 9.13) (Am. Ord. 699, passed 11-8-2006) Penalty, see § 130.999

§ 130.051 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.

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

(1989 Code, § 9.14) Penalty, see § 130.999

§ 130.052 ABANDONED OR UNATTENDED ICE BOXES AND THE LIKE, 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 or her 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 the door or lid, snap lock or other locking device from the ice box, refrigerator or container unless the container is displayed for sale on the premises of the owner or his or her agent and is securely locked or fastened.

(1989 Code, § 9.15) Penalty, see § 130.999

§ 130.053 MUNICIPAL SWIMMING POOL AND PARK PROPERTY.

(A) *Admission.* Any person who shall enter the municipal swimming pool after posted hours shall, upon conviction thereof, forfeit not less than \$75 nor more than \$200 for each such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be imprisoned in the county jail until the forfeiture and costs are paid, but not exceeding 90 days.

(Am. Ord. 411, passed - -)

(B) *Entrance when closed prohibited.* No person shall enter any of the public buildings of the city when the buildings are closed and except in compliance with all regulations established by the Board of Park Commissioners.

(C) *Littering prohibited.* No person shall throw or deposit any litter or trash in the municipal swimming pool or on public park property.

(1989 Code, § 9.16) Penalty, see § 130.999

§ 130.054 CLOSING HOURS OF PUBLIC PARKS.

All parks located within the city, either established before or after the adoption of this provision, shall be closed to the public during the hours of 12:00 a.m. until 6:00 a.m.

(Ord. 520, passed 5-3-1994)

PROPERTY OFFENSES

§ 130.065 FRAUD ON HOTEL AND RESTAURANT KEEPERS PROHIBITED.

(A) No person shall do any of the following:

(1) Obtain any food, lodging or other service or accommodation at any campground, hotel, motel, boarding or lodging house or restaurant, intentionally absconding without paying for it; or

(2) While a guest at any campground, hotel, motel, boarding or lodging house or restaurant, intentionally defraud the keeper thereof in any transaction arising out of the relationship as guest.

(B) As used herein, prima facie evidence of an intent to defraud is shown by:

(1) The refusal of payment upon presentation when due and the return unpaid of any bank check or order for the payment of money given by any guest to any campground, hotel, motel, boarding or lodging house or restaurant, in payment of any obligation arising out of the relationship as guest. These facts also constitute prima facie evidence of intent to abscond without payment.

(2) The failure or refusal of any guest at a campground, hotel, motel, boarding or lodging house or restaurant to pay, upon written demand, the established charge for food, lodging or other service or accommodation actually rendered.

(3) The giving of false information on a lodging registration for or the presenting of false or fictitious credentials for the purpose of obtaining lodging or credit.

(4) The drawing, endorsing, issuing or delivering to any campground, hotel, motel, boarding or lodging house or restaurant of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for food, lodging or other service or accommodation, knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

(1989 Code, § 9.19) (Ord. 460, passed - -) Penalty, see § 130.999

§ 130.066 THEFT OF GOODS OR PROPERTY.

(A) *Prohibited.* No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without his or her consent and with intent to deprive the owner permanently of possession of the property where the value is less than \$100.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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MOVABLE PROPERTY. Property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights and things growing on, affixed to or found in land.

PROPERTY. All forms of tangible property, whether real or personal, without limitation, including electricity, gas and documents which represent or embody a chose in action or other intangible rights.

PROPERTY OF ANOTHER. Includes property in which the actor is a co-owner and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife.

VALUE. The market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less, but if the property stolen is a document evidencing a chose in action or other intangible right, *VALUE* means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of the consideration or value of the interest shall be deducted from the total value of the property.
(1989 Code, § 9.20) (Ord. 461, passed - -) Penalty, see § 130.999

§ 130.067 CRIMINAL DAMAGE TO PROPERTY PROHIBITED.

(A) No person shall intentionally cause damage to any physical property of another without the person's consent, where the property is reduced in value by \$100 or less.

(B) For the purposes of this section, property is reduced in value by the lesser of either the cost of repair or replacement.
(1989 Code, § 9.21) (Ord. 462, passed - -) Penalty, see § 130.999

§ 130.068 RETAIL THEFT OF PROPERTY PROHIBITED.

(A) No person shall intentionally alter indicia of price or value of merchandise or take and carry away, transfer, conceal or retain possession of merchandise held for resale by a merchant or property of the merchant having a value of under \$100 without his or her consent and with intent to deprive the merchant permanently of possession or the full purchase price.

(B) As used herein, the intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of the merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the goods.

(C) In addition to other penalties provided for violation of this section, the Judge may order a violator to pay restitution. In lieu of actual payment, the court may order return of the merchandise. If the value of the merchandise is diminished, the court may order the return of the merchandise plus payment of an amount equal to the diminished value.

(1989 Code, § 9.22) Penalty, see § 130.999

OFFENSES BY PERSONS

§ 130.080 CURFEW.

(A) *Restriction.*

(1) No individual between the ages of 12 years through 17 years shall remain upon any street or alley or other public place in the city between 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday and 6:00 a.m. the following day, and between 12:00 a.m. midnight on Friday and Saturday and 6:00 a.m. the following day.

(2) No individual under the age of 12 shall remain on any street, alley or public place in the city between 10:00 p.m. and 6:00 a.m. the following day.

(B) *Exceptions.* This section does not apply to a minor who is:

(1) Accompanied by the minor's parent or guardian;

(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

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(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

(9) Married or had been married or had disabilities of minority removed in accordance with state law.

(1989 Code, § 9.17) (Am. Ord 547, passed 6-3-1997) Penalty, see § 130.999

§ 130.081 TRUANCY AND HABITUAL TRUANCY.

Pursuant to the authority granted under Wis. Stats. § 118.163(2), the Common Council for the City of Mineral Point hereby enacts the following amendment to the municipal code of the city, to prohibit a person under 18 years of age from being a truant or a habitual truant.

(A) *Truancy prohibited.*

(1) *Prohibition of truancy.* A person under 18 years of age is prohibited from being a truant.

(2) *Definition.* For purposes of this section, *TRUANT* means a pupil who is absent from school without an acceptable excuse under Wis. Stats. §§ 118.15 and 118.16(4) for part or all of any day in which school is held during a school semester during which school attendance officer, principal or teacher has not been notified of the legal cause of the absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on of the purpose of defeating the intent of Wis. Stats. § 118.15.

(3) *Penalty.* Upon a finding that a person under the age of 18 is a truant, the court shall enter an order making 1 or more of the following dispositions: A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. § 938.37, and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during the school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the persons, or both.

(B) *Prohibition of habitual truant.*

(1) *Prohibition from habitual truancy.* A person is prohibited from being a habitual truant.

(2) *Definition.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DROPOUT. A child who ceases to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under Wis. Stats. § 118.15(1)(b) to (d) or (3).

HABITUAL TRUANT. A pupil who is absent from school without an acceptable excuse under Wis. Stats. §§ 118.15 and 118.16(4) for part or all of 5 or more days during a semester, whether consecutive or not.

(C) *Penalty.* Upon a finding that a person under the age of 18 is a habitual truant, the court shall enter an order making one or more of the following dispositions:

(1) Suspend a person's operating privileges for not less than 30 days nor more than 1 year. The Judge shall immediately take possession of the suspended license and forward it to the Department of Transportation for the State of Wisconsin, together with a notice stating the reason for and duration of the suspension.

(2) An order for the person to participate in counseling, community service or work program as provided under Wis. Stats. § 938.34(5g). The cost of the counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. Any county department of human services or social services, community agency, public agency or nonprofit charitable organization administering a supervised work program or other community service work to which a person is assigned pursuant to an order under this division acting in good faith has immunity from any civil liability in excess of \$25,000 for any act or omission by or impacting on that person.

(3) An order for the person to remain at home except during hours in which the person is attending religious worship or school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.

(4) An order for the person to attend an educational program under Wis. Stats. § 938.34(7d).

(5) An order for the person to be placed in the Teen Court Program and that the person admits or pleads no contest in open court with the person's parent, guardian or legal custodian present, to the allegations that person violated the municipal ordinance.

(6) If a person under the age of 18 or over the age of 16 has been adjudicated a dropout, the Judge may suspend the person's operating privileges as defined in Wis. Stats. § 340.01(40) until the person reaches the age of 18. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation together with a notice stating the reason for and duration of the suspension. (See Wis. Stats. § 938.342(2)(b)).

(D) *Reference to statutes.* References to specific statutory sections whenever used in this section shall mean the Wisconsin Statutes currently in effect and as from time to time amended, modified, repealed or otherwise altered by the state legislature.
(Ord. 598, passed 11-4-1998)

§ 130.082 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the city in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.
(1989 Code, § 9.05) Penalty, see § 130.999

§ 130.083 LOITERING PROHIBITED.

(A) *Loitering or prowling.* No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or 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 or her to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this section if the police or peace officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

(B) *Obstruction of highway by loitering.* No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

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

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

(E) *Loitering in public places.* No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any police officer. Upon being requested to move, a person must immediately comply with such request by leaving the premises or area thereof at the time of the request.
(1989 Code, § 9.07) Penalty, see § 130.999

§ 130.084 FAIR HOUSING.

(A) The Common Council hereby adopts by reference Wis. Stats. § 106.50 *et seq.*, and any amendments thereto, as if fully set forth herein.

(B) The officials and employees of the city shall assist in the orderly prevention and removal of all discrimination in housing within the city by implementing the authority and enforcement provisions of Wis. Stats. § 101.22.

(C) The City Clerk-Treasurer shall maintain forms for complaints to be filed under Wis. Stats. § 101.22, and shall assist any person alleging a violation thereof in the city to file a complaint thereunder with the Wisconsin Department of Industry, Labor and Human Relations for enforcement of Wis. Stats. § 101.22.

(1989 Code, § 9.18) (Ord. 428, passed - -)

RESTRICTED SUBSTANCES

§ 130.095 DRUG PARAPHERNALIA.

(A) *Definitions.* The definitions set forth in Wis. Stats. § 961.571 are hereby adopted by reference and made a part hereof.

(B) *Determination.* The factors set forth in Wis. Stats. § 961.572 are hereby adopted by reference and made a part hereof as factors a court or other authority shall consider in making the determinations referred to in Wis. Stats. § 961.572.

(C) *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, re-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section. Any person who shall violate any provision of this section shall, upon conviction, be subject to a forfeiture as provided in § 130.999 of this code.

(D) *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, re-pack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this subsection. Any person who shall violate any provision of this division shall, upon conviction, be subject to a forfeiture as provided in § 130.999 of this code.

(Ord. 556, passed 8-6-1996) Penalty, see § 130.999

§ 130.096 TOBACCO USE BY MINORS.

(A) *By minors.* Wis. Stats. § 254.92, prohibiting the use, purchase or possession of cigarettes and tobacco products by persons under the age of 18 years, is adopted by reference as if fully set forth herein.

(B) *Penalties.* Penalty for violation of this section shall be as set forth in § 130.999. (Ord. 553, passed 6-4-1996) Penalty, see § 130.999

§ 130.097 TOBACCO USE AT AN EDUCATIONAL FACILITY.

(A) (1) An educational facility, as defined by Wis. Stats. § 101.23(1)(a), means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

(2) Wis. Stats. § 101.123(2)(a) is hereby adopted, which prohibits the use of cigarettes and tobacco products by persons at an educational facility. (Ord. 551, passed 5-7-1996)

(B) The use of tobacco products on premises owned or rented by, or under the control of, the Mineral Point School Board is prohibited. (Ord. 676, passed 4-6-2005) Penalty, see § 130.999

§ 130.098 MARIJUANA.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MARIJUANA means all parts of the plants of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinols.

(B) *Possession of 25 grams or less of marijuana.* It shall be unlawful for any person to possess or use 25 grams or less of marijuana or a marijuana derivative. This section shall include but not be limited to those persons who possess or use marijuana or a marijuana derivative, in an amount of 25 grams or less, and include those persons who are charged under this section for a first offense.

(C) *Exception.* This section shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice. However, the burden of proof to prove this exception shall be on the person claiming it.

(D) *Penalty.* Any person who shall violate any provision of this section shall, upon conviction, be subjected to a forfeiture as provided below:

FORF*	PA*	CC*	JIF*	JA*	CLDA*	CSF*	TOTAL
\$100	\$23	\$25	\$7	\$10	\$4	\$40	\$209
<p>NOTES:</p> <p><u>Code:</u> <u>Purpose:</u></p> <p>FORF: Forfeiture</p> <p>PA: Penalty Assessment</p> <p>CC: Court Costs</p> <p>JIF: Justice Information Fee</p> <p>JA: Jail Assessment</p> <p>CLDA: Crime Lab and Drug Assessment</p> <p>CSF: Court Support Fee</p>							

(Ord. 590, passed 4-8-1998) Penalty, see § 130.999

§ 130.999 PENALTY.

(A) Unless otherwise indicated in this chapter, any person who shall violate any provision of this chapter shall be subject to a penalty as provided in § 10.99 of this municipal code.

(B) (1) In addition to any penalty imposed for violation of Wis. Stats. § 943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing the damaged or destroyed property.

(2) The parent or parents of any unemancipated minor child who violates Wis. Stats. § 943.01(1) may also be held liable for the cost of replacing or repairing the damaged or destroyed property in accordance with Wis. Stats. § 895.035.
(1989 Code, § 9.25)

(C) Violation of § 130.031 shall result in a forfeiture of \$25 plus court costs.
(Ord. 606, passed 9-7-1999)

(D) Any person who shall be adjudicated to have violated any of the provisions of § 130.033 shall be subject to a forfeiture of not less than \$25 and not more than \$100 plus the cost of the prosecution and, upon default of payment of the forfeiture and costs, shall have his or her motor vehicle operator's license suspended until the forfeiture and costs are paid, but not to exceed 5 years. Each day that a violation of this section continues shall be deemed a separate offense.
(Ord. 683, passed 10-4-2005)

(E) The penalty for the violation of any portion of § 130.050 shall be \$35 plus the cost of prosecution, with each day the violation continues being considered a separate violation. (1989 Code, § 9.13) (Am. Ord. 699, passed 11-8-2006)

(F) For violations of § 130.080:

(1) *First offense.* Any individual who shall violate any provision of § 130.080 shall, upon conviction thereof, forfeit \$25.

(2) *Second offense.* Any individual found guilty of violating any provision of § 130.080 who shall previously have been convicted of a violation of this section within 1 year shall forfeit \$25, together with costs of prosecution. (1989 Code, § 9.17) (Am. Ord 547, passed 6-3-1997)

(G) Any person who shall violate any provision of § 130.095 shall be subject to a penalty as follows:

(1) Violation of § 130.095(C) shall be subject to a fine of \$50 for a first offense, upon conviction, and \$100 for all offenses after the first offense, upon conviction.

(2) Any person violating § 130.095(D) shall, upon conviction, be subject to a forfeiture of \$200. (Ord. 556, passed 8-6-1996)

(H) Penalty for violation of § 130.096 shall be a forfeiture of not more than \$10 upon conviction thereof, together with costs of prosecution. (Ord. 553, passed 6-4-1996)

(I) Penalty for violation of § 130.097(A) shall be a forfeiture of not more than \$10 upon conviction thereof, together with costs of prosecution. (Ord. 551, passed 5-7-1996)

(J) Penalty for violation of § 130.097(B) shall be a forfeiture of not more than \$10 upon conviction thereof, together with costs of prosecution. (Ord. 676, passed 4-6-2005)