

# TITLE XIII: GENERAL OFFENSES

Chapter

## 130. OFFENSES AGAINST VILLAGE REGULATIONS

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Section

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### GENERAL PROVISIONS

#### § 130.01 SALE AND USE OF FIREWORKS.

The provisions of Wis. Stat. § 167.10, exclusive of any penalty provision, is adopted by reference and made a part of this chapter.

(1999 Code, § 130.01) (Ord. 118, passed 10-9-1978)

#### **Cross-reference:**

*Public nuisances enumerated, see § 92.03*

#### § 130.02 ABANDONED OR UNATTENDED REFRIGERATORS AND THE LIKE PROHIBITED.

No person shall leave outside any building or dwelling in a place accessible to children any abandoned, unattended, or discarded ice box, refrigerator, or any other container of any kind which has a snap lock or other device thereon without first removing such snap lock, doors, or other locking device from such ice box, refrigerator, or container.

(1999 Code, § 130.02) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

**Cross-reference:**

*Public nuisances enumerated, see § 92.03*

*Storage of junked or discarded property; abatement, see §91.01*

**§ 130.03 DISORDERLY CONDUCT PROHIBITED.**

(A) No person within the village 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; or

(2) Intentionally cause, provoke, or engage in any fight, brawl, riot, or noisy altercation other than a bona fide athletic contest.

(B) 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 village, or upon any private property in open view of the public, or in the halls, stairways, or elevators of public or commercial buildings, or to indecently expose his or her person.

(C) Any and all music held outside of a building during a public gathering, commercial business hours, or a private event, whether live music or recorded, must cease at or before 12:00 a.m.

(1999 Code, § 130.03) (Ord. 118, passed 10-9-1978; Ord. 118-A, passed 5-9-1994) Penalty, see § 130.99

**§ 130.04 RESISTING OR INTERFERING WITH OFFICERS.**

(A) No person shall, without reasonable excuse or justification, resist or interfere with any officer of the village or refuse to obey any lawful order given by such officer while such officer is doing any act in an official capacity and with lawful authority.

(B) It is a defense to prosecution under this section that the hindrance, obstruction, resistance, or interference alleged consisted of speech only.

(1999 Code, § 130.04) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

**§ 130.05 OBSCENITY PROHIBITED.**

It shall be a violation of this section for any person to conduct, sell, give away, or distribute within the village any obscene material or performance, as defined in Wis. Stat. § 944.21(c) and (d).

(1999 Code, § 130.05) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

**§ 130.06 DESTRUCTION OF PROPERTY PROHIBITED.**

No person shall willfully injure or intentionally deface, destroy, or unlawfully remove, take, or meddle with any property belonging to the village or its departments or to any private person without the consent of the owner or proper authority.

(1999 Code, § 130.06) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

**§ 130.07 NOISE WHICH DISTURBS PUBLIC PEACE PROHIBITED.**

(A) No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof, unless the making and continuing of same cannot be prevented and is necessary for the protection or preservation of property, or of the health, safety, or limb of some person.

(B) No person shall play any radio, television set, phonograph, cassette player, compact disc player, or any musical instrument from a residence, business, motor vehicle, or any other area in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(1999 Code, § 130.07) (Ord. 84, passed 8-5-1968; Ord. 84-A, passed 9-12-1977; Ord. 84-B, passed 8-7-1978; Ord. passed 10-8-2012) Penalty, see § 130.99

**Cross-reference:**

*Public nuisances enumerated, see § 92.03*

**§ 130.08 CURFEW REGULATIONS.**

(A) *Policy and purpose.* The village, in order to control the activities of persons under the age of 16 years, does create this section, recognizing that parents and guardians of such young people have the responsibility of controlling and regulating their children or wards activities.

(B) *Curfew hours.* It shall be unlawful for any person under the age of 16 years to be upon the streets of the village after the hours of 10:00 p.m. on any day of the week, except that this section does not apply to a minor who is:

- (1) Accompanied by a parent, guardian, or custodian;
- (2) Accompanied by an adult specified by a parent, guardian, or custodian;
- (3) Carrying out an errand or other lawful activity as directed by a parent, guardian, or custodian;
- (4) Occupying the sidewalk of the place where the minor resides, or the sidewalk of a place where the minor has permission from his or her parent or guardian to be, or the sidewalk of a next- door neighbor not communicating an objection to a police officer; or
- (5) Participating in, going to, or returning from:
  - (a) Lawful employment;
  - (b) A lawful athletic, educational, entertainment, religious, or social event; or
  - (c) Interstate travel.

(C) *Exemptions.*

- (1) It is a exemption to division (B) that the minor was:
  - (a) Accompanied by the minor's parent or guardian;
  - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (c) In a motor vehicle involved in interstate travel;
  - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - (e) Involved in an emergency;
  - (f) 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;
  - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the village, 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 village, a civic organization, or another similar entity that takes responsibility for the minor;
  - (h) 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
  - (i) Married or had been married or had disabilities of minority removed in accordance with state law.

(2) It is a defense to prosecution under division (B)(3) that the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, including any investigation that a reasonable person would deem necessary, none of the exemptions enumerated in this section apply.

(1999 Code, § 130.08) (Ord. 77, passed 9-18-1963) Penalty, see § 130.99

### **§ 130.09 ELECTRICAL INTERFERENCE WITH RADIO AND TELEVISION RECEPTION.**

(A) It shall be unlawful for any person to operate within the limits of the village any electrical apparatus, device, machine, or equipment which needlessly and unnecessarily causes interference with radio or television reception when such interference can be reasonably prevented by means of repairs, adjustments, the installation of corrective appliances, or other practicable alterations.

(B) The Village Board shall have the power to appoint an inspector for the purpose of enforcing this section, who shall at all reasonable hours, on demand, be permitted to enter any and all premises where such electrical equipment, apparatus, or devices be kept or used, for the purpose of inspecting the same.

(C) It shall be the duty of the such inspector to investigate complaints of radio interference, to locate the sources of such interference, to advise and make recommendation as to its elimination, and such inspector is hereby authorized to issue

orders for such repairs, adjustments, or alterations to be complied with within a reasonable length of time, as shall be practicable and reasonably necessary in preventing the continuance of such interference.

(D) Any person or persons complaining of such interference in writing may upon paying a reasonable fee to the inspector have the inspector examine and inspect any premises designated by the complainants as having electrical equipment or apparatus interfering with the radio or television reception in that locality.

(1999 Code, § 130.09) (Ord. 21, passed 4-1-1929) Penalty, see § 130.99

### **§ 130.10 SHOPLIFTING.**

(A) No person, with purpose to deprive the owner of property, shall knowingly obtain or exert control over the property in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception; or
- (4) By threat.

(B) Whoever violates this section is guilty of theft. Except as otherwise provided in this division (B), whoever violates this section shall be punished as provided in § 130.99. If the value of the property is \$500 or more, then a violation of this section is a felony to be prosecuted under appropriate state law.

(1999 Code, § 130.10) (Ord. passed - -) Penalty, see § 130.99

### **§ 130.11 POSSESSION OF MARIJUANA.**

(A) No person shall knowingly possess marijuana.

(B) This section does not apply to any of the following:

(1) Manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with state or federal law; or

(2) Any person who obtained the marijuana pursuant to a prescription issued by a practitioner in accordance with state or federal law, where the drug is in the original container in which it was dispensed to such person.

(C) Whoever violates this section is guilty of possession of marijuana. Except as otherwise provided in this division (C), whoever violates this section shall be punished as provided in § 130.99. If the amount of the drug involved equals or exceeds 200 grams, then a violation of this section is a felony to be prosecuted under appropriate state law.

(1999 Code, § 130.11) (Ord. passed - -) Penalty, see § 130.99

### **§ 130.12 BURNING RESTRICTED.**

(A) It shall be unlawful for any person to burn any refuse, garbage, wet combustibles, rubbish, oily substances, asphalt, rubber, or any other substances which produce a malodorous emission as defined by the Wis. Admin. Code NR 429:03(2).

(B) Excepting common yard waste, it shall be unlawful for any person to burn dry combustibles unless said burning is done entirely within a covered or enclosed receptacle.

(C) Fires may be set at such times and in such manner as deemed necessary for the reasonable practice and instruction of firefighters or for the testing of firefighting equipment. Said burning shall be under the direct supervision of the Village Fire Chief.

(D) Common yard waste, such as dry grass, leaves, and brush may be burned on properties where the material has been collected provided that every such fire shall be attended at all times by a responsible person under the direction of the property owner to ensure that such fires are maintained under control.

(E) It shall be unlawful for any person to burn any common yard waste, such as dry grass, leaves, or brush on any village street, or approach thereto such as the curb and or gutter of a village street.

(Ord. passed 2-7-2000) Penalty, see § 130.99

### **§ 130.13 PURCHASE OR POSSESSION OF TOBACCO OR VAPING PRODUCTS BY MINORS.**

(A) (1) Purchase or possession of cigarettes, tobacco or vaping products by persons under 18 years of age is prohibited.

(2) Vapor products include vapes, vaporizers, vape pens, hookah pens, electronic cigarettes (e-cigarettes or e-cigs) and e-pipes are some of the many terms used to describe electronic nicotine delivery systems (ENDS). ENDS are non-combustible tobacco products.

(B) No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette,

tobacco or vaping product.

(C) No person under 18 years of age may purchase, attempt to purchase, or possess any cigarette, tobacco or vaping product except as follows.

(1) A person under 18 years of age may purchase or possess cigarettes, tobacco or vaping products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

(2) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase, or possess cigarettes, tobacco or vaping products in the course of his or her participation in an investigation under Wis. Stat. § 254.916, that is conducted in accordance with Wis. Stat. § 254.916(3).

(D) A law enforcement officer shall seize any cigarette, tobacco or vaping product that has been sold to and is in the possession of a person under 18 years of age.

(Ord. passed 1-19-2015; Ord. passed 7-8-2019) Penalty, see § 130.99

#### **§ 130.14 SALE OF TOBACCO OR VAPING PRODUCTS TO MINORS PROHIBITED.**

(A) No retailer, manufacturer, distributor, jobber, or sub-jobber, no agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber, or sub-jobber, and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes, tobacco or vaping products to any person under the age of 18, except as provided in Wis. Stat. § 254.92(2)(a). A vending machine operator is not liable under this division (A) for the purchase of cigarettes, tobacco or vaping products from his or her vending machine by a person under the age of 18 if the vending operator was unaware of the purchase.

(B) A law enforcement officer shall seize any cigarette, tobacco or vaping product that has been sold to and is in the possession of a person under 18 years of age.

(Ord. passed 1-19-2015; Ord. passed 7-8-2019) Penalty, see § 130.99

#### **§ 130.15 POSSESSION OF DRUG PARAPHERNALIA PROHIBITED.**

(A) 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 in violation of the laws of this state.

(B) **DRUG PARAPHERNALIA** shall be defined as set forth at Wis. Stat. § 961.571, which is hereby incorporated herein by reference.

(Ord. passed 1-19-2015) Penalty, see § 130.99

#### **§ 130.16 TRESPASSING ON PUBLIC, PRIVATE, AND SCHOOL PROPERTY.**

(A) *Property.* **PROPERTY** includes real and personal property and includes, but is not limited to, boathouses, houseboats, motor vehicle dealership lots, ships or vessels, any building or dwelling, enclosed railroad cars, motor home, or other motorized type of home or a trailer home, whether or not a person is living in such home.

(B) *Trespassing generally.*

(1) It is unlawful for a person to knowingly trespass upon the property of another. As used in this section, the term **PROPERTY** includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly- or privately-owned. The term **TRESPASS** means one or more than the following acts:

(a) *Entering property without permission.* Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate;

(b) *Entering or remaining on property.* Entering or remaining upon or in property without justification after being notified or requested to abstain from entering; or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or by any police officer or public employee whose duty it is to supervise the use of or maintenance of the property;

(c) *Interfering with lawful use of property.* Entering upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others; or

(d) *Using property without permission.* Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate without the implied or actual permission of the owner, lessee, or person in lawful possession.

(2) Nothing in divisions (B)(2)(a) through (B)(2)(d) above shall be construed to prohibit entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of others, provided the person(s) retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as possible, and does not unduly interfere with the lawful use of the property.

(C) *Public building unauthorized entry.* No unauthorized person shall enter or remain in or upon any public building, premises, or grounds in violation of any notice posted thereon, or when said building, premises, or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission also constitutes an unauthorized entry.

(D) *Trespass to property.*

(1) No person shall intentionally enter or remain upon the property, premises, or within the enclosure of another, without the consent or permission of the owner, agent, or possessor.

(2) No person shall intentionally enter or remain upon the property or premises of another after having been notified by the owner, agent, or possessor of the property or premises not to enter or remain on the property or under circumstances tending to create or provoke a breach of the peace.

(3) A person has received notice from the owner or occupant within the meaning of this section if such person has been notified personally, either orally or in writing, or if the property is posted.

(4) For purpose of this section, entry to a place during the time when it is open to the general public is with consent.

(E) *Unauthorized presence on school property prohibited.*

(1) It shall be unlawful for any student who is under suspension, expulsion, exemption, or other discipline, excluding such student from attending school under the jurisdiction of the Pepin Area Schools Board of Education, or for any person, not a student presently enrolled to attend school under the jurisdiction of the Pepin Area School Board of Education or not an employee of said Pepin Area School Board of Education or not a parent or guardian of a student so enrolled or not an otherwise "authorized person" to be present within any school building or upon any school grounds under the jurisdiction of said School Board without having first secured authorization to be there from the principal or other person in charge of said school building or school grounds for any purpose previously authorized by the Board of Education or its designee.

(2) Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of said Pepin Area Schools Board, or upon request of any police officer, display any written authorization to be present which such person may have, in their possession or otherwise, explain such person's presence or status as such student, employee, parent, or guardian, or "authorized person" referred to in division (E)(1) above.

(3) All entrances to the school buildings referred to in division (E)(1) above shall be posted with a notice stating, "entry into school building by unauthorized persons prohibited." All school grounds referred to in division (E)(1) above shall be posted with a notice stating, "entry upon school grounds by unauthorized persons prohibited."

(F) *Enforcement.* This section shall be enforced by any law enforcement officer authorized to enforce the laws of the state and village ordinance.

(G) *Penalties.* The penalties under Wis. Stat. § 23.33(13)(a) or § 10.99 of this code of ordinances and are adopted by reference.

(H) *Severability.* If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(I) *Effective date.* This section shall be effective immediately upon passage and publication as provided by law.

(Ord. passed 7-13-2015) Penalty, see § 130.99

**Statutory reference:**

*Trespass, see Wis. Stat. § 943.14*

## **WEAPONS**

### **§ 130.25 CARRYING CONCEALED KNIVES PROHIBITED.**

No person shall carry or wear concealed about his or her person or in an automobile any cross knuckles or metal knuckles, or any bowie knife, dirk knife, dagger, stiletto, or other device of the type commonly known as switch knife, switch blade knife, spring blade knife, or push button knife.

(1999 Code, § 130.20) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

### **§ 130.26 DISCHARGE OF FIREARMS OR WEAPONS PROHIBITED.**

(A) It shall be unlawful for any person to discharge or cause the discharge of any missile from any firearm, including air rifles or other weapon, in the village, unless express written permission, permitting the same, shall have been given for a specific purpose and on a specific date by the Chief of Police.

(B) If the Chief of Police denies or revokes a permit, this action shall be final unless the applicant or permittee shall, within two days after the receipt of notice of the denial or revocation, file with the Village Board a written appeal. The Village Board shall, within 72 hours after the appeal is filed, consider all the evidence in support of or against the action appealed and render a decision either sustaining or reversing the denial or revocation. The decision of the Village Board shall be final.

(1999 Code, § 130.21) (Ord. 58, passed 10-4-1954) Penalty, see § 130.99

## **ALCOHOLIC BEVERAGE OFFENSES**

### **§ 130.40 POSSESSION OUTSIDE TAVERNS OR PICNIC AREAS PROHIBITED.**

No person shall consume intoxicating liquor or fermented malt beverages or carry about an open container of intoxicating liquor or fermented malt beverages outside a licensed tavern or off the premises of an established picnic area where such possession and consumption is not prohibited. This section shall not apply to any person or persons on private property with permission of the owner or occupant of such property.

(1999 Code, § 130.35) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

#### **Cross-reference:**

*Alcoholic beverages, see Ch. 110*

### **§ 130.41 POSSESSION OR CONSUMPTION; OPEN CONTAINERS IN VEHICLES.**

(A) No person shall consume any intoxicating liquor or fermented malt beverages or have in his or her possession or control any open container of intoxicating liquor or fermented malt beverages while in a vehicle parked on a public thoroughfare or any public parking lot.

(B) No person shall possess or permit to be possessed in any moving or parked vehicle under his or her control any open container of intoxicating liquor or fermented malt beverages.

(1999 Code, § 130.36) (Ord. 118, passed 10-9-1978) Penalty, see § 130.99

### **§ 130.42 PUBLIC INTOXICATION PROHIBITED.**

It shall be unlawful for any person to be found in any public place in the village in such a state of intoxication as to disturb others, or unable, by reason of his or her condition, to care for his or her own safety or the safety of others.

(1999 Code, § 130.37) (Ord. 59, passed 10-4-1954) Penalty, see § 130.99

### **§ 130.98 VIOLATIONS; LIABILITY FOR COSTS OF REPLACING DAMAGED PROPERTY.**

In addition to any penalty imposed for violation of this chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates § 130.06 of this chapter may also be held liable for the costs of replacing or repairing such damaged or destroyed property in accordance with Wis. Stat. § 895.035.

(1999 Code, § 130.98) (Ord. 118, passed 10-9-1978)

### **§ 130.99 PENALTY.**

Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to §10.99 of this code of ordinances.

(1999 Code, § 130.99)