

# **TITLE 11**

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## **Offenses and Nuisances**

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# **Chapter 1**

## **State Statutes Adopted**

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

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Village provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

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## Chapter 2

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### Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms and Explosives
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#### Sec. 11-2-1 Regulation of Firearms and Explosives.

- (a) **Discharge of Firearms Regulated.** No person, except a police officer or other law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun, bow or cross bow of any description, within the Village of Fredonia.
- (b) **Shooting Into Village Limits.** No person shall in the territory adjacent to the Village discharge any firearm in such manner that the discharge shall enter or fall within the Village.
- (c) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Village Board where proper safety precautions are taken.
- (d) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the Village without first obtaining a permit to do so from the Village Board.
- (e) **Hunting Prohibited.** Discharging a firearm while hunting is prohibited within the corporate limits of the Village of Fredonia.

- (f) **Definitions.** For purposes of this Section, a firearm is defined as 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.

## **Sec. 11-2-2 Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited.**

(a) **Concealed Weapons Prohibited.**

- (1) No person shall, within the Village, wear or in any manner carry under his clothes or conceal upon or about his person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.
- (2) “Dangerous weapon” means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
- (3) Subsection (a)(1) does not apply to the holder of a valid concealed carry license as permitted by Wisconsin Act 35 provided the weapon meets the definition of Sec. 175.60(1)(j), Wisc. Stats.

(b) **Concealed Weapons in Public Establishments.** No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and concealed (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.

(1) Subsection (b) does not apply to the holder of a valid concealed carry license as permitted by Wisconsin Act 35 provided the weapon meets the definition of Sec. 175.60(1)(j), Wisc. Stats. and provided that the public establishment has not prohibited concealed weapons per 943.13(1m) Wisc. Stats.

(c) **Specific Concealed Weapons Prohibited.** No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk, or dagger or any other dangerous or deadly weapon within the Village.

(1) Subsection (c) does not apply to the holder of a valid concealed carry license as permitted by Wisconsin Act 35 provided the weapon meets the definition of Sec. 175.60(1)(j), Wisc. Stats.

(d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**

- (1) No person shall sell, manufacture, purchase, possess, or carry a “Numchuk” (also called a “Nunchaku”) or a “Churkin” or a “Suchbai” or similar weapon within the Village of Fredonia.
- (2) For the purpose of this Section, the following definitions shall apply:
  - a. **“Numchuk” or “Nunchaku.”** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
  - b. **“Churkin.”** A round throwing knife consisting of several sharp points protruding from a rounded disc.
  - c. **“Suchbai.”** A short length of wood or metal or similar material which, when gripped in the hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.
- (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

(e) **Compliance With State Act 35** All components of subsection (a), (b), and (c) must be in compliance with Wisconsin State Act 35. Any items that do not comply shall be considered null and void.

## **Sec. 11-2-3 Safe Use and Transportation of Firearms & Bows.**

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

- (1) **Aircraft.** Has the meaning given under Sec. 114.002(3), Wis. Stats.
- (2) **Encased.** 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.** 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 1-1-6.

**(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) Subsection (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.
- (4) Subsection (b)(1), and (2) do not apply to the holder of a valid concealed carry license as permitted by Wisconsin Act 35 provided the weapon meets the definition of Sec. 175.60(1)(j), Wisc. Stats.

**(d) Compliance With State Act 35.** All components of subsection (a) and (b) must be in compliance with Wisconsin State Act 35. Any items that do not comply shall be considered null and void.

Part 2. Severability. If any provision of this ordinance is invalid or unconstitutional, such invalidity of unconstitutionality shall not affect the other provisions of this ordinance.



## **Sec. 11-2-4 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 Village unless he shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, 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. 11-2-5 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 Village 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.
- (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 Village of Fredonia.
- (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 Village. 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. 11-2-6 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 unusual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police 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.** 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 meaning 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 Village of Fredonia.

## **SEC. 11-2-6.1 Loitering by Sex Offenders Prohibited**

(a) **Definitions.** The definitions delineated in Section 11-6-5.1 (b) of the Village of Fredonia Municipal Code shall be applicable to this subsection.

In addition, the following term shall mean:

1. "Child safety zones" shall include any real property upon which there exists any route, path, area or facility used for or which supports a use of:
  - a. a public park, parkway, parkland, park facility;
  - b. a recreational trail;
  - c. a public playground;
  - d. a school for children;
  - e. athletic fields used by children;
  - f. a daycare center;
  - g. any facility for children (which means a public or private school, a group home, as defined in Section 48.02 (7), Stats., a residential care center for children and youth, as defined in Section 48.02 (15d), Stats., a shelter care facility, as defined in Section 48.02 (17), Stats., a foster home, as defined in Section 48.02 (6), Stats., a treatment foster home, as defined in Section 48.02 (17q), Stats., a daycare center licensed under Section 48.65, Stats., a daycare program established under Section 120.13 (14), Stats., a daycare provider certified under Section 48.651, Stats., or a youth center, as defined in Section 961.01 (22) Stats).

h. Designated walking zones for schools and schools districts.

**(b) Prohibition.**

(1) It shall be unlawful for any offender to enter into, congregate, loiter, wander, stroll, stand or play in or near a child safety zone under circumstances that warrant alarm for the safety of persons in the vicinity.

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

**(c) Penalty.** Any person who shall violate any provision of this subsection shall pay, upon conviction, a forfeiture not to exceed One Thousand Dollars (\$1,000) per violation, plus court costs. Each day during which a violation of this section is permitted to exist shall be deemed to be a separate violation.

## **Sec. 11-2-7 Loud and Unnecessary Noise Prohibited.**

**(a) Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise.

**(b) Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

**(1) Horns, signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

**(2) Radios, phonographs, similar devices.** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud an unnecessary manner. The operating of any set, instrument, phonograph machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the at the property line of the building, structure or vehicle in which it is

located shall be prima facie evidence of a violation of this Section.

- (3) **Loudspeakers, amplifiers for advertising.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

- (4) **Animals, birds.** The keeping of any animal or bird which causes frequent or long continued unnecessary noise.

- (5) **Steam whistles.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger upon request of proper Village authorities.

- (6) **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffle or other device which will effectively prevent loud or explosive noises therefrom.

- (7) **Construction or repair of buildings.** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Village Marshal shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.

a. **Schools, courts, churches, hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.

b. The provisions of this Section shall not apply to:

- i. Any vehicle of the Village while engaged in necessary public business.
- ii. Excavations or repairs of streets or other public construction by or on behalf of the Village, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
- iii. The reasonable use of amplifiers or

loudspeakers in the course of public addresses which are noncommercial in nature.

**(8) Permits for Amplifying Devices.**

**1. Permit Required.** The use of loudspeakers or amplifying devices on the streets or in the parks of the Village of Fredonia is prohibited unless the party desiring to use such loudspeakers or amplifying device first obtains a permit from the Village Marshal.

**2. Grounds or Reasons for Denial or Allowance.** The Village Marshal shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.

**3. Time Restrictions.** The Village Marshal shall not grant a permit to use a loudspeaker or amplifying device before the hours of 9:00 a.m. or after 10:00 p.m. No permit shall be granted to anyone who, in the opinion of the Village Marshal, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

**Sec. 11-2-8 Disorderly Conduct.**

**(b) Disorderly Conduct Prohibited.** No person within the Village of Fredonia 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.

**(c) Defecating or Urinating in Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Village, 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 person.

**Sec. 11-2-9 Unauthorized Presence on School Property.**

**(a) Unauthorized Presence.**

**(1)** No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the Village 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 Village 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 Village of Fredonia 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 Village of Fredonia.

### **Sec. 11-2-10 Truancy Prohibited.**

No person under eighteen (18) years of age shall be truant or a habitual truant as defined in Section 118.163, Wis. Stats. If a person is found to have violated this section, all of the dispositions set forth in that statute are available to the court.

### **Sec. 11-2-11 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 police officer is acting in an official capacity in carrying out his or her duties.

## **Sec. 11-2-12 Possession of Controlled Substances.**

- (a) **Controlled Substances.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 161 of the Wisconsin Statutes.
- (b) **Possession of Marijuana.** No person shall possess any amount of marijuana, tetrahydrocannabinols or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.

*State Law Reference:* Chapter 161, Wis. Stats.

## **Sec. 11-2-13 Throwing or Shooting Missiles and Projectiles**

- A. Except as provided in Subsection B hereof, no person shall throw, shoot or propel any arrow, stone, or other missile or projectile at any person, building or other object within the Village of Fredonia, provided the Board may issue permits to an organized archery club or an archer to engage in target practice within the Village at times and places designated by the Village Marshal.
- B. A person may hunt with a bow and arrow or crossbow within the Village, subject to the following restrictions:
  - (1) No such hunting is permitted on public property.
  - (2) No such hunting is permitted within 100 yards of any building used for human occupancy located on another person's land unless the person who owns the land on which the building is located allows the hunter to hunt within 100 yards of the building.
  - (3) No such hunting is permitted unless the arrow or bolt is discharged toward the ground.

## **Sec. 11-2-14 Unlawful Use of Telephone.**

No person shall, within the limits of the Village, do the following:

- (a) With intent to frighten, intimidate, threaten, abuse or harass, make a telephone call and threaten to inflict injury or physical harm to any person or the property of any person;
- (b) With intent to frighten, intimidate, threaten, abuse, harass or offend, telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act;
- (c) Make or cause the telephone of another repeatedly to ring, with intent to harass any person at the called number;

- (d) Make repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number;
- (e) Make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to abuse, threaten or harass any person at the called number; or
- (f) Knowingly permit any telephone under his control to be used for any purpose prohibited by this Section.

### **Sec. 11-2-15 Misuse of E911.**

- (a) No person shall utilize the E911 emergency telephone number system for any purpose other than to report an emergency.
  - (b) It shall be unlawful to report an alleged emergency knowing that the fact situation which he or she reports does not exist.
  - (c) An “emergency” under this Section exists when the person reasonably believes that immediate response by public safety personnel is essential due to the risk or actual occurrence of:
    - (1) Death or great bodily harm.
    - (2) Property damage.
    - (3) Any other situation which mandates the immediate response of public safety personnel.
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## Chapter 3

### Offenses Against Property

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11-3-1	<b>Destruction of Property Prohibited</b>
11-3-2	<b>Littering Prohibited</b>
11-3-3	<b>Abandoned Refrigerators Prohibited</b>
11-3-4	<b>Theft of Library Material</b>
11-3-5	<b>Cemetery Regulations</b>
11-3-6	<b>Damage to Public Property</b>
11-3-7	<b>Retail Theft</b>
11-3-8	<b>Issuance of Worthless Checks</b>
11-3-9	<b>Storage of Junk, Etc., Regulated</b>
11-3-10	<b>Fraudulent Return of Merchandise</b>
11-3-11	<b>Penalties</b>

#### **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 Village and belonging to the Village 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 unenmancipated 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, alley, highways, public parks or other property of the Village, or upon property within the Village owned by the School District or any private person, or upon the surface of any body of water within the Village.
- (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 Village shall arrange to have the same picked up by Village 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 Village 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 Village Board 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) **Distribution of Handbills.**

- (1) **Permit Required.** No person, either by himself or his agent, shall distribute or peddle either from door to door or by handing to the people in the public streets any handbills, newspapers, magazines, cards or propaganda or literature of any kind without the written permission of the Village Marshal or Village Clerk-Treasurer, but this Section shall not prohibit delivery of newspapers to subscribers thereof.
- (2) **Permits Issued.** The Village Marshal or Village Clerk-Treasurer, upon being satisfied that the matter intended for distribution shall contain no obscene, indecent, or immoral literature or pictures, and upon being satisfied that the person or persons doing the actual distributing or peddling shall exercise due and proper care that such matter shall not be thrown in the public streets or on private lawns, but shall be securely placed at each door in such manner as will assure against its being blown about and creating a public nuisance, shall issue a written permit. Such permit shall describe generally the matter to be distributed and shall name the person or persons who shall do the actual distributing. The Village Marshal or Village Clerk-Treasurer may, in his discretion, grant

continuing or indeterminate permits for such matters and to such person s as he may deem proper, which said permits may be revoked by the Village Marshal or Village Clerk-Treasurer at any time it appears that the distribution is not made in the manner described in this Section.

- (3) **Recourse to the Village Board.** Any person or persons who shall feel aggrieved by the action of the Village Marshal or Village Clerk-Treasurer in granting or refusing a permit may appeal to the Village Board.

### **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 Village of Fredonia 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, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.

- (b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and Village 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 Village 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 Village of Fredonia.
- (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 structure; 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. No picnic, parties, or similar gatherings are permitted.
- (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, and horses are prohibited in any cemetery.
- (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 Village unless the property is specifically named as being part of a licensed premises.
- (12) **Play Vehicles Prohibited.** No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (13) **Presence After Hours Prohibited.** No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

### **Sec.. 11-3-6 Damage to Public Property.**

- (a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Village.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the Village.

### **Sec. 11-3-7 Retail Theft.**

- (a) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without his consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection (d).
- (b) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.
- (c) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this Section is his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian if a minor. The detained person must be

promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Compliance with this Subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

- (d) If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit no more than Two Hundred Dollars (\$200.00). If the value of the merchandise exceeds One Hundred Dollars (\$100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

### **Sec. 11-3-8 Issuance of Worthless Checks.**

- (a) Whoever issues any check or other order for the payment of money less than Five Hundred Dollars (\$500.00) which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this Section.
- (b) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
  - (1) Proof that, at the time of issuance, the person did not have an account with the drawee; or
  - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
  - (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- (c) This Section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.
- (d) Any person violating any provisions of this Section shall forfeit not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) if the worthless check is an amount equal to or less than One Hundred Dollars (\$100.00) and shall forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) if the worthless check is greater than One Hundred Dollars (\$100.00) and less than Five Hundred Dollars (\$500.00), together with the cost of the prosecution and restitution to the victim pursuant to Section 943.24(5)(b) and (c), Wis. Stats., as amended, and Section 800.093, Wis. Stats. as amended. Any person violating any provisions of this Section shall also forfeit the costs of prosecution and, in default of payment of any penalty imposed under this Section, shall suffer imprisonment in the County Jail until forfeiture and costs are paid but not to exceed sixty (60) days.

### **Sec. 11-3-9 Storage of Junk, Etc., Regulated.**

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

*Cross Reference:* Section 10-5-8.

### **Sec. 11-3-10 Fraudulent Return of Merchandise.**

It is a violation of this Section for any person to return merchandise to a merchant for the purpose of claiming a cash refund or credit if the person deceives the merchant by doing any of the following:

- (a) Represents that such person purchased the merchandise when the person did not purchase it;
- (b) Represents that the merchandise was purchased from a particular merchant when it was not purchased from that merchant;
- (c) Represents that the merchandise was purchased for a particular price when it was purchased for a lower price; or
- (d) Gives the merchant a false name, address or telephone number.

### **Sec. 11-3-11 Penalties.**

#### **(a) Enforcement.**

**(1) Penalties.** In addition to the general penalty of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violated Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Village Marshal from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

**(2) Stipulation of Guilt or No Contest.** Stipulations of guilt or no contest may be made by persons arrested for violations of the ordinances contained in this Chapter in accordance with Sec. 66.12(1)(b), Wis. Stats. Stipulations shall conform to the form contained on the Uniform Ordinance Citation. Stipulations may be accepted by the Village Marshal.

- (3) **Deposits.** Any person stipulating guilt or no contest under Subsection (2) shall deposit a forfeited penalty as provided in a schedule established by the Village Board. Deposits may be brought or mailed to the office of the Clerk-Treasurer as directed by the arresting officer.

(b) **Attempt.**

- (1) Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the Village of Fredonia 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 results which, if accomplished, would constitute a violation of these ordinances and that he does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he 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 principle and may be charged with and convicted of the commission of said act although he did not directly commit it and although the person who directly committed it has not been convicted or has 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:
- a. Directly commits the acts; or
  - b. Intentionally aids and abet 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 a 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 mind and no longer desires that the act be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

## Chapter 4

### Offenses Involving Alcoholic Beverages

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- 11-4-1      **Outside Consumption**
- 11-4-2      **Sale to Underage or Intoxicated Persons Restricted**
- 11-4-3      **Underage Person's Presence in Places of Sale; Penalty**
- 11-4-4      **Underage Person's; 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 Village 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 Village 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 Village unless the property is specifically named as being part of a licensed premises. All purchases of intoxicating liquor or fermented malt beverages by glass or in open containers shall be consumed upon the licensed premises where purchased and where served and shall not be removed to the public areas or private areas regulated by this Chapter.
- (3) **Leaving Licensed Premises With Open Container.**
  - a. It shall be unlawful for any licensee, permittee or operator to permit any patrol 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 Village Board 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 Village 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 Village Board 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.**

- (b) **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” 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 issued 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.
- (c) **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 11-4-2(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 document 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 Village Board. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
  - (2) The supervised work program shall be 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 identification 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.

### **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 Village 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

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### 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      **Village Jurisdiction Over Persons 12 through 17 Years of Age**
- 11-5-6      **Smoking by Minors; Possession of Smoking Materials on School Property**
- 11-5-7      **Drug Paraphernalia**
- 11-5-8      **Enforcement and Penalties**

#### Sec. 11-5-1 Curfew.

- (a) **Curfew Established.** It shall be unlawful for any person under sixteen (16) years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, cemetery, playground, public building or any other public place in the Village of Fredonia between the hours of 11:00 p.m. and 5:00 a.m., unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore.
- (b) **Exceptions.**
  - (1) This Section shall not apply to a child:
    - a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
    - b. Who is on his own premises or in the areas immediately adjacent thereto.
    - c. Whose employment makes is necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
    - d. Who is returning home from a supervised school, church or civic function.
  - (2) These exception shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

- (c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under sixteen (16) years of age to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under sixteen (16) years of age to violate this Section.
- (d) **Responsibility of Places of Amusement.** It shall be unlawful for any person, firm or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit any minor under sixteen (16) years of age to loiter, loaf or idle in such a place during the hours prohibited by this Section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this Section shall find persons under sixteen (16) years of age loitering, loafing or idling in such place of business, he shall immediately order such person to leave and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform them of the violation.
- (e) **Detaining a Minor.** Law enforcement officers are hereby authorized to detain any minor violating the provisions of above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to Village law enforcement officers for the purpose of taking the custody of the minor and shall sign a release for him or her, or such child may be taken directly from the scene of his apprehension to his home. If such child's parents or relative living nearby cannot be contacted to take custody of such child and it is determined by the apprehending officer that the child's physical or mental condition is such as would require immediate attention, the police officer may make such necessary arrangements as may be necessary under the circumstances for the child's welfare.
- (f) **Penalty.**
- (1) Any parent, guardian or person having legal custody of a child described in Subsection (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 Section 1-1-6 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, Chapter 161, of the Wisconsin Statutes.

### **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 Village Jurisdiction Over Persons 12 through 17 Years of Age.**

- (a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **Provisions of Ordinance Applicable to Persons 12 through 17 Years of Age.** Subject to the provisions and limitations of Sec. 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons twelve (12) through seventeen (17) years of age may be brought on behalf of the Village of Fredonia and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (d) **Additional Prohibited Acts.** In addition to any other provision of the Village of Fredonia Code of Ordinances, no person age twelve (12) through seventeen (17) shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **Penalty for Violations of Subsection (d).** Any person twelve (12) through seventeen (17) years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 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 Smoking by Minors; Possession of Smoking Materials on School Property.**

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

- (1) Cigarettes.** Any roll of tobacco wrapped in paper or other substance other than tobacco.
- (2) Law Enforcement Officer.** Shall have the meaning given in Sec. 30.50(4s), Wis. Stats.
- (3) Retailer.** Any person who sells, exposes for sale or possesses within intent to sell to consumers any cigarettes.
- (4) Tobacco Products.** Cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready-robbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twisted tobacco, fine cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. "Tobacco products" does not include cigarettes, as defined under Sec. 139.30(1), Wis. Stats.

**(b) Purchase of Cigarette and Tobacco Products Prohibited.**

- (1)** Except as provided in Subsection (b)(2), no child may do any of the following:
  - a. Buy or attempt to buy any cigarette or tobacco product;
  - b. Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product;
  - c. Possess any cigarette or tobacco product.
- (2)** A child may purchase cigarettes 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.
- (3)** A law enforcement officer shall seize any cigarette or tobacco product involved in a violation of Subsection (b)(1) committed in his or her presence.

**(c) Restrictions on Sales or Gifts of Cigarettes or Tobacco Products.**

- (1) a.** No retailer may sell or give cigarettes or tobacco products to any person under the age of eighteen (18) except as provided in Sec. 48.983(3), Wis. Stats.
  - b.** Retailers shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of eighteen (18) is unlawful under this Section and Sec. 48.983, Wis. Stats.
- (2)** A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machine stating that the purchase of any cigarette or tobacco product by a person under the age of eighteen (18) is



unlawful under Sec. 48.983, Wis. Stats., and that the purchaser is subject to a forfeiture not to exceed Twenty-five Dollars (\$25.00).

**(d) Regulation of Use of Cigarettes and Tobacco Products on School Premises.**

- (1) No person shall use cigarettes or tobacco products in any building used principally for education purposes, or in which a school is located or course of instruction or training program is offered, which program has been approved or licensed by a state agency or board and the grounds or campus upon which the school is located.
- (2) The regulation of smoking in Subsection (d)(1) does not apply to the following areas that have designated smoking areas under Subsection (e).

**(e) Designation of Smoking Areas.**

- (1) A person in charge or his agent may designate smoking areas in places where smoking is permitted under Subsection (e)(1) unless a fire marshal, law, ordinance or resolution prohibits smoking. Entire rooms and buildings may be designated smoking areas.
- (2) If an entire room is designated a smoking area, the person in charge or his agent shall post notice of the designation conspicuously on or near all entrances to the room normally used by the public. If an entire building is designated a smoking area, notice of the designation shall be posted on or near all entrances to the building normally used by the public but posting notice of the designation on or near entrances to rooms within the building is not required.

**(f) Penalties.**

- (1) Any person who violates Subsection (b)(1) shall upon conviction thereof forfeit not less than Twenty-five Dollars (\$25.00).
- (2) Any person who violates Subsection (c) or (d)(1) shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00), together with the costs of prosecution. In the event of a failure to pay such a forfeiture, where no showing of indigence is made, the person may be imprisoned for not more than ninety (90) days, as the court deems fit or until such judgment is paid.

## **Sec. 11-5-7 Drug Paraphernalia.**

- (a) **Definitions.** 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 introduced into the human body, a controlled substance, as defined in Chapter 161, Wis. Stats., in violation of this Section. It includes but is not limited to:

- (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

- (2) 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. Chilliums;
  - l. Bongs;

**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 consideration 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 an owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intent 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 Activities.**

- (1) **Possession of Drug Paraphernalia.** No person may use, or possess, with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Section. Possession of drug paraphernalia shall give rise to a rebuttable presumption of prohibited use.
- (2) **Manufacture, Sale or Delivery of Drug Paraphernalia.** No person may sell, deliver, possess with intent to deliver or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, inhale or otherwise introduce into the human body a controlled substance in violation of this Section.
- (3) **Delivery of Drug Paraphernalia to a Minor.** Any person eighteen (18) years of age or over, who violates Subsection (b) of this Section by

delivering drug paraphernalia to a person under eighteen (18) years of age, is guilty of a special offense.

- (4) **Advertisement of Drug Paraphernalia.** No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (5) **Exemption.** This Subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 161, Wis. Stats. This Section does not prohibit the possession, manufacture, or use of hypodermics, in accordance with Chapter 161, Wis. Stats.

(d) **Penalties.**

- (1) Any drug paraphernalia used or possessed in violation of this Section shall be seized and forfeited to the Village in accordance with the provisions of the Fredonia Code of Ordinances as to property forfeiture.
- (2) Any person who violates Subsections (a) or (b) above shall, upon conviction, be subject to a forfeitures of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), together with costs of prosecution, and upon default of payment be imprisoned in the County jail or house of correction until the total forfeiture and costs are paid, but not to exceed thirty (30) days.
- (3) Any person who violates Subsection (c) above shall, upon conviction, be subject to a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) together with costs of prosecution, and upon default of payment be imprisoned in the County jail or house of correction until the total forfeiture and costs are paid, but not to exceed sixty (60) days.

## **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 Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11-5-2 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.

## **Chapter 6**

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### **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 Abatement of Public Nuisances**
- 11-6-7 Costs 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 Village of Fredonia.

#### **Sec. 11-6-2 Public Nuisance Defined.**

A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

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

#### **Sec. 11-6-3 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 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 Village 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 or ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
  - (i) **Street Pollutions.** 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 Village.
  - (j) **Animals at Large.** All animals running at large.
  - (k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.
  - (l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

## **Section 11-6-4 Public Nuisances Offending Morals and Decency.**

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

- (a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) **Gambling Devices.** All gambling devices and slot machines, 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 Village.
- (d) **Continuous Violation of Village Ordinances.** Any place or premises within the Village where Village 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 Village.

## **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 peace or safety coming within the definition of Section 11-6-2.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the Ordinances of the Village relating to materials and manner of construction of buildings and structures within the Village.
- (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 eight (8) 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 Village.
- (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, alley 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 Village.
- (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 Village or which, although made in accordance with such Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purposes 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 Village 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.

## **Sec. 11-6-5.1      Residency Restrictions for Registered Sex Offenders**

(a)      **Purpose and findings.** This Section is a regulatory measure aimed at protecting the health and safety of children in Fredonia from the risk that certain convicted sex offenders may re-offend in locations close to their residences. The Village finds and declares that certain sex offenders are a serious threat to public safety. When convicted sex offenders re-enter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by state law near schools and daycare centers. The Village finds and declares that, in addition to schools and daycare centers, children congregate or play at public parks, recreational trails, athletic fields, and playgrounds.

(b)      **Definitions.** The following definitions shall be used in this Chapter unless the context otherwise requires:

(1) A “crime against children” shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction and involving a person under the age of 18 years, respectively:

### Wis. Stats Sections

- 940.225(1)      First Degree Sexual Assault;
- 940.225(2)      Second Degree Sexual Assault;
- 940.225(3)      Third Degree Sexual Assault;
- 940.22(2)      Sexual Exploitation by Therapist;
- 940.30      False Imprisonment-victim was minor and not the offender’s child;
- 940.31      Kidnapping-victim was minor and not the offender’s child;
- 944.01      Rape (prior statute);
- 944.06      Incest;
- 944.10      Sexual Intercourse with a Child (prior statute);



944.11	Indecent Behavior with a Child (prior statute);
944.12	Enticing Child for Immoral Purposes (prior statute);
948.02(1)	First Degree Sexual Assault of a Child;
948.02(2)	Second Degree Sexual Assault of a Child;
948.025	Engaging in Repeated Acts of Sexual Assault of the Same Child;
948.05	Sexual Exploitation of a Child;
948.055	Causing a Child to View or Listen to Sexual Activity;
948.06	Incest with a Child;
948.07	Child Enticement;
948.075	Use of a Computer to Facilitate a Child Sex Crime;
948.08	Soliciting a Child for Prostitution;
948.085	Sexual Assault of a Child Placed in Substitute Care;
948.09	Sexual Intercourse with a Child age 16 or older;
948.095	Sexual Assault of a Student by School Instructional Staff;
948.10	Exposing Genitals or Pubic areas to a child;
948.11	Exposing Child to Harmful Material or Harmful Descriptions of Narrations;
948.12	Possession of Child Pornography;
948.13	Convicted Child Sex Offender Working with Children;
948.14	Registered Sex Offender and Photographing Minors;
948.30	Abduction of Another's Child;
971.17	Not Guilty by Reason of Mental Disease-of an included offense;
975.06	Sex Crimes Law Commitment.

(2) "Offender" means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a crime against children and is required to be registered with the State of Wisconsin or any other state.

(3) "Permanent Residence" means the place where an offender abides, lodges or resides for fourteen (14) or more consecutive days.

(4) "Temporary Residence" means the place where the offender abides, lodges or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence; or the place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

(5) "Original Domicile" means the offender's true, fixed and permanent home, to which the offender intends to return and remain even though currently residing elsewhere.

(c) **Residency Restrictions.** An offender shall not establish a permanent residence or temporary residence in any location on a parcel of land which, in whole or in part, is within five hundred feet (500') of the real property comprising any of the following:

- (1) Any facility for children (which means a public or private school, a group home, as defined in Section 48.02(7), Stats., a residential care center for children and youth, as defined in Section 48.02 (15d), Stats., a shelter care facility, as defined in Section 48.02 (17), Stats., a foster home, as defined in Section 48.02 (6), Stats., a treatment foster home, as defined in Section 48.02 (17q), Stats., a

daycare center licensed under Section 48.65, Stats., a daycare program established under Section 120.13 (14), Stats., a daycare provider certified under Section 48.651, Stats., or a youth center, as defined in Section 961.01 (22), Stats.); and/or

- a. Any path, route, area or facility used for:
1. a public park, parkway, parkland, park facility;
  2. a recreational trail;
  3. a public playground;
  4. a school for children;
  5. athletic fields used by children;
  6. a daycare center;
  7. rehabilitative agencies for children and adults with developmental disabilities.

The distance shall be measured from the closest boundary line of the real property supporting the residence of an offender to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above-enumerated uses and the resulting residency restriction distances, as amended from time to time, is on file in the Office of the Village Clerk for public inspection.

(d) **Residency Restriction Exceptions.** An offender establishing a residence in any location on a parcel of land which, in whole or in part, is within five hundred feet (500') of the real property comprising any of the uses enumerated in Section 11-6-5.1 (c) does not commit a violation of this subsection if any of the following apply:

- (1) The offender has established a residence prior to the effective date of this Section (*to be inserted upon approval*) which is within five hundred feet (500') of any of the uses enumerated in Section 11-6-5.1 (c) above, or such enumerated use is newly established after such effective date and it is located within five hundred feet (500') of a residence of an offender, which was established prior to the effective date of this Section.
- (2) The offender is a minor or ward under guardianship.

(e) **Property Owners Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators; Penalties.**

(1) It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used by any offender as a permanent residence or temporary residence who is prohibited from establishing such permanent residence or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within a prohibited location zone described in 11-6-5.1 (c) and not subject to an exception set forth in 11-6-5.1 (d) above,

(2) A property owner's failure to comply with provision of this section shall constitute a violation of this section, and shall subject the property owner to the code enforcement provisions in Section 11-6-5.1 (i) as provided in this ordinance.

(f) **Original domicile restriction.** In addition to and notwithstanding the foregoing, but subject to Section 11-6-5.1 (d) above, no offender and no individual who has been convicted of a crime against children shall be permitted to establish a residence in the Village of Fredonia, unless such person was domiciled in Ozaukee County at the time of the offense resulting in the person's most recent conviction for committing the crime against children.

(g) **Designated walk zone restriction.** In addition to and notwithstanding the foregoing, but subject to Section 11-6-5.1 (d), no offender and no individual who has been convicted of a crime against children shall be permitted to establish a residence in a designated walking zone for schools or school districts.

(h) **Density regulation.** In addition to and notwithstanding the foregoing, but subject to Section 11-6-5.1(d) above, no offender shall be permitted to establish a permanent or temporary residence within five hundred feet (500') of a temporary or permanent residence of another offender in the Village of Fredonia. This restriction shall not apply to offenders who have established residence within five hundred feet (500') of another offender prior to the effective date of this ordinance, but all existing offender residences shall be considered when calculating distance and determining residence availability for any offenders establishing a residence after the effective date of the ordinance.

(i) **Violations.** If an offender violates any provision of this Section, without any exception(s) as also set forth above, said offender shall be subject to a forfeiture of not less than \$1,000 and not more than \$2,500 for each violation. Each day that a violation exists shall be considered a separate offense. If any person, corporation, or business entity of any kind rents to an offender, in violation of the terms of this ordinance, said person, corporation, or business entity shall be subject to a forfeiture of not less than \$1,000 and not more than \$2,500 for each violation. Each day that a violation exists shall be considered a separate offense. In addition to all relief called for herein, the Village may also seek equitable relief, including, but not limited to, an action in the name of the Village in the Circuit Court for Ozaukee County to permanently enjoin such residency.

## **Sec. 11-6-6 Abatement of Public Nuisances.**

(a) **Enforcement.** The Village Marshal, Director of Public Works, Building Inspector, the Chief of the Fire Department and the Village Board shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this Section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has satisfied himself that a nuisance does in fact exist.

(b) **Summary Abatement.** If the inspecting officer shall determine that a public nuisance exists within the Village and there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President or Village Board, upon the recommendation of the appropriate department head, may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(c) **Abatement After Notice.** If the inspecting officer shall determine that public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the

nuisance to remove the same within ten (10) days. If such nuisance is not removed within such ten (10) days, the proper officer shall cause the nuisance to be removed as provided in Subsection (b).

**(d) Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its official in accordance with the laws of the State of Wisconsin.

### **Sec. 11-6-7 Cost of Abatement.**

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