

Chapter 34 OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. IN GENERAL

Secs. 34-1—34-8. Reserved.

ARTICLE II. PENALTIES AND ALTERNATIVE DISPOSITIONS

DIVISION 1. GENERALLY

Sec. 34-9. Penalties.

- (a) *First offense/penalty.* Unless otherwise specifically provided herein for particular offenses, any person who violates this chapter shall, upon conviction, be subject to a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding a length of time as provided in the town penalty schedule.
- (b) *Second offense/penalty.* Unless otherwise specifically provided herein for particular offenses, any person guilty of violating this chapter or any person who has previously been convicted of a violation of this chapter shall, upon conviction, be subject to a forfeiture for each offense as provided in the town penalty schedule, available in the office of the town clerk, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and costs are paid, but not exceeding a length of time as provided in the town penalty schedule.
- (c) *Separate violations.* Each day of violation of this chapter shall constitute a separate offense.

(Code 2006, § 11-6-9)

Sec. 34-10. Municipal court costs.

Pursuant to Wis. Stats. § 814.65(1) the town authorizes the municipal judge, if a municipal court is created, to collect a minimum fee on each separate matter, whether it is on default of appearance, a plea of guilty or no contest, on issuance of a warrant or summons, or the action is tried as a contested matter.

(Code 2006, § 1-1-6(h))

Secs. 34-11—34-19. Reserved.

DIVISION 2. JUVENILES

Sec. 34-20. Dispositions and sanctions.

- (a) For a juvenile adjudged to have violated an ordinance, a court is authorized to impose any of the dispositions listed in Wis. Stats. §§ 938.343 and 938.344, in accordance with the provisions of those statutes and this section.
- (b) For a juvenile adjudged to have violated an ordinance who violates a condition of a dispositional order of the court under Wis. Stats. §§ 938.343 or 938.344, the municipal court is authorized to impose any of the sanctions listed in Wis. Stats. § 938.355(6)(d), in accordance with the provisions of those statutes.

(Code 2006, § 1-1-6(d))

Sec. 34-21. Disposition alternatives for alcohol and drug offenses.

- (a) If a juvenile is found to have engaged in underage drinking of alcohol, drinking of alcohol on school premises or at a school-sponsored activity, falsifying proof of age, possessing drug paraphernalia, or delivery of drug paraphernalia to a minor in violation of town ordinances, the court may order a forfeiture, suspension or revocation of the juvenile's driver's license, and participation in a supervised work program;
- (b) After ordering any of the penalties described in subsection (a) of this section, the court may, with the juvenile's agreement, enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed and may require the juvenile to: submit to an Alcohol or Other Drug Abuse (AODA) assessment, participate in an outpatient AODA treatment program if an AODA assessment recommends treatment, or participate in an AODA education program.
- (c) In addition to the dispositions listed above, the court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
 - (1) The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
 - (2) The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - (3) The juvenile has not successfully completed participation in a teen court program during the two years before the date of the alleged violation.
- (d) If the court finds that a juvenile's parent or guardian is unable to provide or refuses to provide court-ordered AODA services for the juvenile through his health insurance or other third party payments, the court may order the parent or health insurer to pay.
- (e) If payment is not attainable as described in subsection (d) of this section, the court may order the municipality to pay for any AODA services so ordered.

(Code 2006, § 1-1-6(e))

Sec. 34-22. Disposition alternatives for other offenses.

The court may impose one or more of the following dispositional alternatives against a juvenile found to have violated a municipal ordinance, for which no penalty is otherwise provided, as follows:

- (1) Counseling for the juvenile and/or the parent or guardian;

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- (2) A forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing the same violation;
 - (3) If the forfeiture is for a violation that is only applicable to a juvenile, the maximum forfeiture amount is as provided in the town penalty schedule, available in the office of the town clerk;
 - (4) For failure to pay the forfeiture, suspend a fishing, hunting or driving license for a period as provided in the town penalty schedule, available in the office of the town clerk;
 - (5) Order the juvenile to participate in a supervised work program or other community service work;
 - (6) Order participation in an AODA assessment, an outpatient AODA treatment or an AODA education program;
 - (7) Order participation in a pupil assistance program provided by the juvenile's school, provided the juvenile's school agrees;
 - (8) In addition to the dispositions listed above, the court may order a juvenile to participate in a teen court program if the following conditions are satisfied:
 - a. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the judge determines that participation in the court program will likely benefit the juvenile and the community;
 - b. The juvenile admits or pleads no contest to the allegations that the juvenile was truant in open court with the juvenile's parent, guardian or legal custodian present;
 - c. The juvenile has not successfully completed participation in a teen court program during the two years before the date of the alleged violation.

(Code 2006, § 1-1-6(f))

Sec. 34-23. Violation of juvenile dispositional orders.

The court may impose the following sanctions on a juvenile who has violated a town ordinance and who has violated a condition of his dispositional order:

- (1) Suspend the juvenile's operating privilege for a period as provided in the town penalty schedule, available in the office of the town clerk;
- (2) Detain the juvenile in his home or current residence, without electronic monitoring, for a period of time as provided in the town penalty schedule, available in the office of the town clerk;
- (3) Order community service work in a supervised work program for a number of hours as provided in the town penalty schedule, available in the office of the town clerk.

(Code 2006, § 1-1-6(g))

Sec. 34-24. Work programs.

- (a) A supervised work program ordered under this chapter shall be administered by the county department under Wis. Stats. §§ 46.215 or 46.22, or by a community agency approved by the court. The court shall set standards for the supervised work program within the budgetary limits established by the county board of supervisors. The supervised work 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. Community service work ordered under this chapter, other than community service work performed under a

supervised work program, shall be administered by a public agency or nonprofit charitable organization approved by the court. The court may use any available resources, including any community service work program, in ordering an adult or child to perform community service work under this chapter.

- (b) The supervised work program or other community service work shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from a member of the staff of the county department, community agency, public agency or nonprofit charitable organization or other qualified person. The supervised work program or other community service work may not conflict with the person's regular attendance at school or gainful employment. The amount of work required shall be reasonably related to the seriousness of the person's offense.

(Code 2006, § 11-4-3(g))

State law reference(s)—Penalty for violation of ordinances, Wis. Stats. § 66.0109; bail generally, Wis. Stats. § 66.0417; outstanding unpaid forfeitures, Wis. Stats. § 66.0115; actions for violations of municipal ordinances, Wis. Stats. § 66.0114; fines and costs in municipal court, Wis. Stats. § 814.65; Juvenile Justice Code, Wis. Stats. § 938.01 et seq.; juvenile courts, Wis. Stats. § 48.03 et seq.; disposition in juvenile cases, Wis. Stats. § 48.33.

Secs. 34-25—34-53. Reserved.

ARTICLE III. ADOPTION OF STATE OFFENSES

Sec. 34-54. 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 town, provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under section 1-17, the general penalty provisions. Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code.

STATE STATUTES ADOPTED

Wis. Stats. § 29.601	Noxious substances
Wis. Stats. § 48.345	Disposition of child adjudged in need of protection
Wis. Stats. § 48.983	Use of tobacco products
Wis. Stats. § 118.07	Health and safety requirements
Wis. Stats. § 118.08	School zones; crossings
Wis. Stats. § 118.09	Safety zones
Wis. Stats. § 118.10	School safety patrols
Wis. Stats. § 118.105	Control of traffic on school premises
Wis. Stats. § 118.11	School fences
Wis. Stats. § 118.123	Reports and records
Wis. Stats. § 118.163	Truancy
Wis. Stats. § 134.65	Cigarette and tobacco products retailer license
Wis. Stats. § 134.66	Restrictions on sale or gift of cigarettes or tobacco products
Wis. Stats. § 167.10	Fireworks regulated
Wis. Stats. § 173.10	Investigation of animal cruelty complaints

Wis. Stats. § 173.24	Reimbursement for expenses
Wis. Stats. § 175.25	Illegal storage of junked vehicles
Wis. Stats. § 254.76	Causing fires by tobacco smoking
Wis. Stats. § 287.81	Littering
Wis. Stats. § 938.17	Jurisdiction—civil law and ordinance violations
Wis. Stats. § 938.343	Dispositions—civil law and ordinance violations
Wis. Stats. § 938.344	Dispositions—intoxicating liquor and beer violations
Wis. Stats. § 939.05(2)(b)	Parties to crime (aiding and abetting)
Wis. Stats. § 939.22	Words and phrases defined
Wis. Stats. § 940.19(1)	Battery
Wis. Stats. § 940.291	Failure of a police officer to render aid
Wis. Stats. § 941.01	Negligent operation of a vehicle
Wis. Stats. § 941.10	Negligent handling of burning materials
Wis. Stats. § 941.12(2), (3)	Interfering with or failing to assist in firefighting
Wis. Stats. § 941.13	False alarms and interference with firefighting
Wis. Stats. § 941.20(1)	Endangering safety by use of dangerous weapon
Wis. Stats. § 941.23	Carrying concealed weapon
Wis. Stats. § 941.235	Carrying a firearm in a public building
Wis. Stats. § 941.24	Possession of switchblade knife
Wis. Stats. § 941.35	Emergency telephone calls
Wis. Stats. § 941.36	Fraudulent tapping of electric wires or gas or water meters or pipes
Wis. Stats. § 941.37(1), (2)	Obstructing emergency or rescue personnel
Wis. Stats. § 942.05	Opening letters
Wis. Stats. § 943.01(1)	Criminal damage to property
Wis. Stats. § 943.11	Entry into locked vehicle
Wis. Stats. § 943.125	Entry into locked coin box
Wis. Stats. § 943.13	Trespass to land
Wis. Stats. § 943.14	Trespass to dwellings
Wis. Stats. § 943.145	Criminal trespass to a medical facility
Wis. Stats. § 943.15	Entry into construction site or locked site
Wis. Stats. § 943.20(3)(a)	Theft of property
Wis. Stats. § 943.21(3)(a)	Fraud on innkeeper
Wis. Stats. § 943.22	Cheating tokens
Wis. Stats. § 943.23(4), (5)	Operating vehicle without owner's consent
Wis. Stats. § 943.34(1)(a)	Receiving stolen property
Wis. Stats. § 943.37	Alteration of property identification marks
Wis. Stats. § 943.38(3)	Forgery
Wis. Stats. § 943.41	Credit card crimes
Wis. Stats. § 943.50(4)(a)	Retail theft
Wis. Stats. § 943.55	Removal of a shopping cart
Wis. Stats. § 944.15	Fornication
Wis. Stats. § 944.17	Sexual gratification
Wis. Stats. § 944.20	Lewd and lascivious behavior
Wis. Stats. § 944.21	Obscene material or performance
Wis. Stats. § 944.23	Making lewd, obscene or indecent drawings
Wis. Stats. § 944.30	Prostitution
Wis. Stats. § 944.31	Patronizing prostitutes

Wis. Stats. § 944.33	Pandering
Wis. Stats. § 944.36	Solicitation of drinks prohibited
Wis. Stats. § 945.01	Definitions relating to gambling
Wis. Stats. § 945.02	Gambling
Wis. Stats. § 945.04	Permitting premises to be used for commercial gambling
Wis. Stats. § 946.40	Refusing to aid officer
Wis. Stats. § 946.41	Resisting or obstructing officer
Wis. Stats. § 946.42(2)	Escape
Wis. Stats. § 946.46	Encouraging violation of probation or parole
Wis. Stats. § 946.69	Falsely assuming to act as public officer or employee
Wis. Stats. § 946.70	Impersonating peace officer
Wis. Stats. § 946.72(2)	Tampering with public records and notices
Wis. Stats. § 947.01	Disorderly conduct
Wis. Stats. § 947.012	Unlawful use of telephone
Wis. Stats. § 947.013	Harassment
Wis. Stats. § 947.06	Unlawful assemblies
Wis. Stats. § 948.01	Definitions relating to crimes against children
Wis. Stats. § 948.09	Sexual intercourse with a child age 16 or older
Wis. Stats. § 948.10	Exposing genitals or pubic area
Wis. Stats. § 948.11(1)(b)	Exposing a child to harmful material
Wis. Stats. § 948.21	Neglecting a child
Wis. Stats. § 948.40	Contributing to the delinquency of a child
Wis. Stats. § 948.50	Strip search by school employee
Wis. Stats. § 948.51(3)(a)	Hazing
Wis. Stats. § 948.60	Possession of a dangerous weapon by a child
Wis. Stats. § 948.61(2)(a)	Dangerous weapons on school premises
Wis. Stats. § 948.63	Receiving property from a child
Wis. Stats. § 951.01	Definitions relating to crimes against animals
Wis. Stats. § 951.015	Construction and application
Wis. Stats. § 951.02	Mistreating animals
Wis. Stats. § 951.03	Dognapping or catnapping
Wis. Stats. § 951.04	Leading animal from motor vehicle
Wis. Stats. § 951.05	Transportation of animals
Wis. Stats. § 951.06	Use of poisonous and controlled substances
Wis. Stats. § 951.07	Use of certain devices prohibited
Wis. Stats. § 951.08	Instigating fights between animals
Wis. Stats. § 951.09	Shooting at caged or staked animals
Wis. Stats. § 951.10	Sale of baby rabbits, chicks and other fowl
Wis. Stats. § 951.11	Artificially colored animals; sale
Wis. Stats. § 951.13	Providing proper food and drink to confined animals
Wis. Stats. § 951.14	Providing proper shelter
Wis. Stats. § 951.15	Animals; neglected or abandoned; police powers

(Code 2006, § 11-1-1)

Secs. 34-55—34-81. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC SAFETY AND PEACE¹

Sec. 34-82. Discharge of firearms.

- (a) *Statutes adopted.* Statutory provisions describing and defining regulations with respect to the use of firearms, but not including any provisions therein relating to penalty to be imposed for the violation of said statutes, which said penalty provisions are expressly excluded from this section, are hereby adopted by reference as if set forth verbatim herein.
- (b) *Discharge of firearms.* No person shall discharge any firearm in the town within 100 yards of any occupied permanent dwelling or on legally posted land forbidding hunting. This prohibition shall not apply to discharge of a firearm by an individual on their own property or in a designated hunting area so long as the discharge is not within 100 yards of any occupied permanent dwelling other than the property owner's.

(Code 2006, § 11-2-1, updated 2/25/2025)

Sec. 34-83. Sale and discharge of fireworks restricted.

No person shall use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the town unless he shall be authorized by a fireworks permit issued by the town. The term "fireworks" as used in this section shall be defined as provided in Wis. Stats. § 167.10(1), and shall be deemed to include all rockets or similar missiles containing explosive fuel.

(Code 2006, § 11-2-2)

State law reference(s)—Regulation of fireworks, Wis. Stats. § 167.10.

Sec. 34-84. Definitions; loitering prohibited.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Loiter means 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.

Nuisance means 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 town.

Prowl means to move or roam about furtively, particularly on the property of another person.

- (b) *General regulation of loitering or prowling.* No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer,

¹State law reference(s)—Crimes against public health and safety generally, Wis. Stats. § 941.01 et seq.; crimes against public peace, order, and other interests, Wis. Stats. § 947.01 et seq.

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 law enforcement 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 law enforcement 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 law enforcement officer at the time, would have dispelled the alarm.

(c) *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 law enforcement 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.

(d) *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 law enforcement officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.

(e) *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) *Permitted loitering.* 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.

(Code 2006, § 11-2-3)

State law reference(s)—Standing or loitering in roadway or highway prohibited, Wis. Stats. § 346.29; vagrancy, Wis. Stats. § 947.02; presence of minors restricted on premises licensed for sale of alcohol beverages, Wis. Stats. § 125.07.

Sec. 34-85. Disorderly conduct.

(a) *Prohibited.* No person within the town 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 other than a bona fide athletic contest.

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- (b) *With motor vehicle.* No person shall make unnecessary and annoying noises with a motor vehicle, including motorcycles and all-terrain vehicles, by squealing tires, excessive acceleration of the engine or by emitting unnecessary and loud muffler noise.
 - (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 town, or upon any private property in open view of the public, or in the halls, stairways or elevators of public or commercial buildings, or to indecently expose his person.

(Code 2006, § 11-2-4)

State law reference(s)—Disorderly conduct, Wis. Stats. § 947.01; negligent operation of a motor vehicle, Wis. Stats. § 941.01; sound-producing devices, impoundment, seizure and forfeiture, Wis. Stats. § 66.0411; authority for municipal regulation of radios and other sound amplification devices in vehicles, Wis. Stats. § 349.135.

Secs. 34-86—34-113. Reserved.

ARTICLE V. OFFENSES AGAINST PROPERTY²

DIVISION 1. GENERALLY

Sec. 34-114. Penalties.

In addition to the general penalty of this Code in section 1-17 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 of any unemancipated minor child who violates section 34-115 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with state statutes. Nothing in this Code shall prevent law enforcement officers from referring violations of the provisions of this chapter to the district attorney's office in the interest of justice.

(Code 2006, § 11-3-7)

Sec. 34-115. Destruction of property prohibited.

- (a) *Willful, intentional defacing, destroying.* 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 town and belonging to the town or its departments, or to any private person, without the consent of the owner or proper authority.
- (b) *Parental liability.* Pursuant to Wis. Stats. § 895.035, the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$2,500.00.

(Code 2006, § 11-3-1)

State law reference(s)—Damage to property, Wis. Stats. § 943.01.

²State law reference(s)—Crimes against property generally, Wis. Stats. § 943.01 et seq.

Sec. 34-116. Damage to public property.

- (a) *Trees, flowers, fountains, statues, benches, bridges, etc.* 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 town.
- (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 town.

(Code 2006, § 11-3-5)

State law reference(s)—Damage to property, Wis. Stats. § 943.01.

Sec. 34-117. Trespass.

- (a) *Violations.* It shall be unlawful and a violation of this section for any person to commit any of the following acts:
 - (1) Enter upon any enclosed or cultivated land of another with intent to catch or kill any birds, animals, or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any such activities.
 - (2) To enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.
 - (3) To hunt, shoot, fish, or gather any product of the soil on the premises of another, or enter said premises with intent to do any of the foregoing after having been notified by the owner or occupant not to do so.
 - (4) To enter upon any enclosed or cultivated land of another with a vehicle of any kind without the express or implied consent of the owner or occupant.
 - (5) To erect upon the land of another any sign which is the same as or similar to the type of sign described in subsection (b) of this section, unless authorized to do so by the owner of the lands involved.
- (b) *Posting of lands.* For lands to be posted against entry by another under this section, a sign at least 11-inches square must be placed in at least two conspicuous places for every 40 acres sought to be protected. The sign must carry an appropriate notice and the name of the person giving the notice followed by the term "owner" if the person giving the notice is the holder of legal title to the land and by the term "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within six months prior to the event complained of shall be prima facie proof that the premises to be protected were posted as herein provided.
- (c) *How entry denied.* A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted.
- (d) *Failure to post.* The failure of any person or occupant to post his lands shall not be deemed to constitute consent of such owner or occupant to any uninvited entry by another. Any entry by a person other than the lawful owner or lawful occupant of land or building shall constitute a violation of this section if such entry is made under circumstances tending to create or provoke breach of the peace.

(Code 2006, § 11-3-4)

State law reference(s)—Trespass to land, Wis. Stats. § 943.13; trespass to dwelling, Wis. Stats. § 943.14; trespass to medical facility, Wis. Stats. § 943.145.

Secs. 34-118—34-147. Reserved.

DIVISION 2. LITTERING

Sec. 34-148. Prohibited.

No person shall deposit, discharge or throw any solid waste, debris, junk, glass, refuse, waste, filth or other litter upon the streets, alleys, highways, public parks, public rights-of-way, or other property of the town, upon any private property without the owner's express permission, or the surface or ice of any body of water within the town.

- (1) The owner of any deposit or discharge, solid waste, junk, glass, refuse, waste, filth, or other litter that is deposited or discharged on any street, alley, highway, public parks, public right-of-way, or other property of the town, upon any private property without the owner's express permission, or the surface or ice of any body of water within the town shall be liable as provided in this section.
- (2) Except as provided in subsection (1) of this section it shall be no defense to a violation of this section that the owner didn't deposit or discharge the solid waste, junk, glass, refuse, waste, filth, or other litter.

(Code 2006, § 11-3-2(a))

Sec. 34-149. Litter from conduct of commercial enterprise.

- (a) *Scope.* The provisions of this section shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
- (b) *Cleanup of litter.* Any person carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within 24 hours of the time the same is deposited or immediately if such litter or debris presents a traffic or safety hazard. 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.
- (c) *Litter picked up at litterer's expense.* If any person fails to pick up any litter as required by subsection (b) of this section within the time specified, the town shall arrange to have the same picked up by town crews or by private enterprise. Applicable bidding procedures may 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 20 percent for administrative expenses, shall be charged to the person that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the town attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this section.

(Code 2006, § 11-3-2(b))

Sec. 34-150. Dumping of refuse and grass along roads.

Except for temporary placement up to 24 hours, no person shall 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 town board, or its designee, pursuant to the provisions of this Code, 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.

(Code 2006, § 11-3-2(c))

Sec. 34-151. Handbills.

- (a) *Scattering prohibited.* It shall be unlawful to deliver any handbills or advertising material to any premises in the town except by being handed to the recipient, placed on the porch, stoop or entranceway of the building, placed in newspaper boxes, or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
- (b) *Papers in public places prohibited.* It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.
- (c) *Advertisements upon public or private property.* No person shall place any advertisement upon any public property or any street, alley or public ground or upon any private property situated and fixed in any street, alley or public ground or upon any other private property, except by the permission of the owner thereof, but this section shall not apply to the posting of notices required by law.

(Code 2006, § 11-3-2(d))

Sec. 34-152. Exceptions.

- (a) This division does not apply to a person who places solid waste in a receptacle designed for solid waste storage that is located along a highway or on other public or private property in conformance with town ordinances.
- (b) This division does not apply to a person who deposits or discharges solid waste in conformance with Wis. Stats. chs. 31, 281 or 283 or under a permit, license or other approval issued by the state department of natural resources or transportation under those chapters.

(Code 2006, § 11-3-2(e)(1), (2))

Sec. 34-153. Rewards for complaints leading to convictions.

A \$100.00 reward will be given to any person who files a complaint resulting in a conviction under this division.

(Code 2006, § 11-3-2(e)(3))

State law reference(s)—Littering, Wis. Stats. § 287.81.

Sec. 34-154. 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 freezer, 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.

(Code 2006, § 11-3-3)

State law reference(s)—Refrigerators and ice boxes, Wis. Stats. § 167.25.

Secs. 34-155—34-176. Reserved.***ARTICLE VI. OFFENSES INVOLVING ALCOHOL BEVERAGES³*****Sec. 34-177. Sale of alcohol beverages to underage persons.**

- (a) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age.
- (b) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age.
- (c) 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 adult or under the adult's control. This subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (d) No adult may intentionally encourage or contribute to a violation of subsection (a) or (b) of this section.
 - (1) *Penalties.* For purposes of determining previous violations, the 30-month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time, all those violations shall be counted as one violation. A person who commits a violation of subsection (a) of this section may be:
 - a. Required to forfeit an amount as provided in the town penalty schedule, available in the office of the town clerk, if the person has not committed a previous violation within 30 months of the violation.
 - b. Fined an amount as provided in the town penalty schedule, available in the office of the town clerk, if the person has committed a previous violation within 30 months of the violation.
 - c. Fined an amount as provided in the town penalty schedule, available in the office of the town clerk, if the person has committed two previous violations within 30 months of the violation.

³State law reference(s)—Alcohol beverages, Wis. Stats. ch. 125; local option, Wis. Stats. § 125.05; municipal regulation of alcohol beverages, Wis. Stats. § 125.10.

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- d. Fined an amount as provided in the town penalty schedule, available in the office of the town clerk, if the person has committed three or more previous violations within 30 months of the violation.
 - e. In addition to the forfeitures provided in subsections (d)(1)a—d of this section, a court shall suspend any license issued under this chapter to a person violating this subsection for:
 - 1. A period of time as provided in the town penalty schedule, available in the office of the town clerk, if the court finds that the person committed a violation within 12 months after committing one previous violation;
 - 2. A period of time as provided in the town penalty schedule, available in the office of the town clerk, if the court finds that the person committed a violation within 12 months after committing two other violations; or
 - 3. A period of time as provided in the town penalty schedule, available in the office of the town clerk, if the court finds that the person committed the violation within 12 months after committing three other violations.
- (2) *Exception.* A person who holds a Class "A" license, a Class "B" license or permit, a "Class A" license or a "Class B" license or permit who commits a violation is subject to subsection (d)(1)e but is not subject to subsection (d)(1)a—d or Wis. Stats. § 125.11.

(Code 2006, § 11-4-1(a)—(c))

Sec. 34-178. Sale of alcohol beverages to intoxicated persons.

- (a) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- (b) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.
- (c) Penalties. Any person who violates subsection (a) of this section shall be subject to a forfeiture as provided in the town penalty schedule, available in the office of the town clerk.

(Code 2006, § 11-4-1(d), (e))

State law reference(s)—Possession of alcohol beverages and presence on licensed premises by underage and intoxicated persons, Wis. Stats. § 125.07.

Sec. 34-179. Underage persons' presence in places of sale; penalty.

- (a) *Restrictions.* An underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to 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 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 subsection 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" or Class "A" premises for the purpose of purchasing other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.

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- (3) Hotels, drugstores, grocery stores, bowling alleys, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums or public facilities, as defined in Wis. Stats. § 125.51, that are owned by a county or municipality, or centers for the visual or performing arts.
 - (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 Wis. Stats. chs. 27 and 28 and parks owned or operated by agricultural societies.
 - (5) Ski chalets, golf courses and golf clubhouses, racetracks licensed under Wis. Stats. ch. 562, curling clubs, private soccer clubs and private tennis clubs.
 - (6) Premises operated under both a "Class B" or Class "B" 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) Premises operating under both a "Class C" license and a restaurant permit.
 - (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, 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" or "Class B" premises under this subsection only if the town adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this subsection and the pertinent law enforcement agency issues to the Class "B" or "Class B" 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 pertinent 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 town. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.)
 - (9) A person who is at least 18 years of age and who is working under a contract with the licensee, permittee or corporate agent to provide entertainment for customers on the premises.
 - (10) An underage person who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or limited liability company or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the pertinent law enforcement agency, in advance, of the times underage persons will be allowed on the premises under this subsection.
 - (11) An underage person who enters or remains in a dance hall attached to Class "B" or "Class B" licensed premises if the dance hall is separate from any room where alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.
 - (12) An underage person who enters and remains on premises for which a temporary Class "B" license is issued under Wis. Stats. § 125.26, if the licensee is authorized by the official or body of the town that issued the license to permit underage persons to be on the premises under Wis. Stats. § 125.26(6) and if the licensee permits underage persons to be on the premises.

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- (b) *Penalties.* A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of subsection (a) of this section is subject to a forfeiture as provided in the town penalty schedule, available in the office of the town clerk.

(Code 2006, § 11-4-2)

State law reference(s)—Possession of alcohol beverages and presence on licensed premises by underage and intoxicated persons, Wis. Stats. § 125.07.

Sec. 34-180. Underage persons; prohibitions; penalties.

- (a) *Prohibitions.* Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages from a licensee or permittee.
 - (2) Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age, possesses or consumes alcohol beverages on licensed premises.
 - (3) Enters, knowingly attempts to enter or is on licensed premises in violation of section 34-179(a).
 - (4) Falsely represents his age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) *Adult to accompany.* Except as provided in subsection (c) of this section, any underage person not accompanied by his parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes a fermented malt beverage is guilty of a violation.
- (c) *Exceptions.* An underage person may possess alcohol beverages in the course of employment during his working hours if employed by any of the following:
- (1) A brewer.
 - (2) A fermented malt beverages wholesaler.
 - (3) A permittee other than a Class "B" or "Class B" permittee.
 - (4) A facility for the production of alcohol fuel.
 - (5) A retail licensee or permittee under the conditions specified in Wis. Stats. § 125.32(2) or 125.68(2) or for delivery of unopened containers to the home or vehicle of a customer.
 - (6) A campus, if the underage person is at least 18 years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- (d) *Penalties for subsection (a) of this section violations.* Any person violating subsection (a) of this section is subject to the following penalties:
- (1) For a first violation, a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, suspension of the person's operating privilege as provided under Wis. Stats. § 343.30(6)(b)1, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
 - (2) For a violation committed within 12 months of a previous violation, either a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, suspension of the person's operating privilege as provided under Wis. Stats. § 343.30(6)(b)(1), participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
 - (3) For a violation committed within 12 months of two previous violations, either a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, revocation of the person's

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- operating privilege under Wis. Stats. § 343.30(6)(b)3, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
- (4) For a violation committed within 12 months of three or more previous violations, either a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, revocation of the person's operating privilege under Wis. Stats. § 343.30(6)(b)3, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
- (e) *Penalties for subsection (b) of this section violations.* Any person violating subsection (b) of this section is subject to the following penalties:
- (1) For a first violation, a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, suspension of the person's operating privilege as provided under Wis. Stats. § 343.30(6)(b)1, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
- (2) For a violation committed within 12 months of a previous violation, either a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, suspension of the person's operating privilege as provided under Wis. Stats. § 343.30(6)(b)2, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
- (3) For a violation committed within 12 months of two previous violations, either a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, revocation of the person's operating privilege under Wis. Stats. § 343.30(6)(b)3, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
- (4) For a violation committed within 12 months of three or more previous violations, either a forfeiture as provided in the town penalty schedule, available in the office of the town clerk, revocation of the person's operating privilege under Wis. Stats. § 343.30(6)(b)3, participation in a supervised work program or other community service work under section 34-25, or any combination of these penalties.
- (f) *Multiple violations from an incident.* For purposes of subsections (a) or (b) of this section, all violations arising out of the same incident or occurrence shall be counted as a single violation.
- (g) *Disclosure of license revocation information.* When a court revokes or suspends a person's operating privilege under subsection (d) or (e) of this section, the state 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 subsection may not disclose the information to any other person or agency.
- (h) *Applicability of statutory proceedings.* A person who is under 18 years of age on the date of disposition is subject to Wis. Stats. § 938.344, unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Wis. Stats. § 938.344(3).
- (i) *Alcohol abuse programs.*
- (1) In this subsection, the term "defendant" means a person found guilty of violating subsection (a) or (b) of this section who is 18, 19, or 20 years of age.
- (2) After ordering a penalty under subsection (d) or (e) of this section, the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this subsection shall require the defendant to do any of the following:
- a. Submit to an alcohol abuse assessment that conforms to the criteria specified under Wis. Stats. § 938.547(4), and that is conducted by an approved treatment facility. The order shall designate an

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- approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.
- b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under subsection (i)(2)a of this section recommends treatment.
 - c. Participate in a court-approved alcohol abuse education program.
- (3) If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under subsection (i)(2)a of this section and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.
- (4) If the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court-approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the defendant that the defendant has complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under subsection (d) or (e) of this section, the court may order the secretary of transportation to reinstate the operating privilege of the defendant if he completes the alcohol abuse treatment program or court-approved alcohol abuse education program.
- (5) If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under subsection (d) or (e) of this section should be imposed.

(Code 2006, § 11-4-3(a)–(f), (h)–(j))

Sec. 34-181. Defense of sellers.

- (a) *Defenses.* In determining whether or not a licensee or permittee has violated section 34-177(a) or 34-179(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages may be considered, including any circumstances listed below. In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this section:
- (1) That the purchaser falsely represented that he 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.
 - (4) That the underage person supported the representation under subsection (a)(1) of this section with documentation that he had attained the legal drinking age.
- (b) *Book kept by licensees and permittees.*

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- (1) Every retail alcohol beverage licensee or permittee may keep a book for the purposes of subsection (a) of this section. The licensee or permittee or his employee may require any of the following persons to sign the book:
 - a. A person who has shown documentary proof that he has attained the legal drinking age if the person's age is in question.
 - b. A person who alleges that he is the underage person's parent, guardian or spouse and that he has attained the legal drinking age, if the licensee or permittee or his employee suspects that he is not the underage person's parent, guardian or spouse or that he has not attained the legal drinking age.
 - (2) The book may show the date of the purchase of the alcohol beverage, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchaser and the purchaser's signature.

(Code 2006, § 11-4-4)

State law reference(s)—Defenses, Wis. Stats. § 125.07.

Sec. 34-182. Persons who have attained the legal drinking age; false or altered identification cards.

- (a) Persons who have attained the legal drinking age.
 - (1) Any person who has attained the legal drinking age, other than one authorized by Wis. Stats. § 125.085 or 343.50 who makes, alters or duplicates an official identification card may be fined not less than \$100.00 nor more than \$1,000.00.
 - (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 \$100.00 nor more than \$1,000.00.
- (b) Any underage person who does any of the following is subject to the penalties specified under section 34-180(d) or (e):
 - (1) Intentionally carries an official identification card not legally issued to him, 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.

(Code 2006, § 11-4-5)

State law reference(s)—Proof of age, Wis. Stats. § 125.085.

Sec. 34-183. Possession or consumption of alcohol beverages on school grounds prohibited.

- (a) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Motor vehicle means a motor vehicle owned, rented or consigned to a school.

School means a public, parochial or private school which provides an educational program for one 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.

School administrator means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

School premises means premises owned, rented or under the control of a school.

- (b) Except as provided by subsection (c) of this section 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 as provided in the town penalty schedule, available in the office of the town clerk, except that Wis. Stats. § 938.344 and section 34-180(d) and (e) provide the penalties applicable to underage persons.

(Code 2006, § 11-4-6)

State law reference(s)—Possession of alcohol beverages on school grounds prohibited, Wis. Stats. § 125.09.

Sec. 34-184. 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 34-180(a) or (b).
- (c) A person who violates this section is subject to a forfeiture as provided in the town penalty schedule, available in the office of the town clerk.

(Code 2006, § 11-4-7)

State law reference(s)—Similar provision, Wis. Stats. § 125.07.

Sec. 34-185. Solicitation of drinks prohibited.

Any licensee, permittee or bartender of a retail alcohol beverage establishment covered by a license or permit issued by the town who permits an entertainer or an employee to solicit a drink of any alcohol beverage defined in Wis. Stats. § 125.02(1) 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 article.

(Code 2006, § 11-4-8)

Secs. 34-186—34-208. Reserved.

ARTICLE VII. OFFENSES BY JUVENILES⁴

Sec. 34-209. Town jurisdiction over persons 12 through 17 years of age.

- (a) *Adoption of state statute.* Wis. Stats. § 938.17(2) 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 Wis. Stats. § 938.17(2), complaints alleging a violation of any provision of this Code against persons 12 through 17 years of age may be brought on behalf of the town 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 this Code, no person age 12 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Wis. Stats. ch. 125.
- (e) *Penalty for violations of subsection (d) of this section.* Any person 12 through 17 years of age who shall violate the provisions of subsection (d) of this section shall be subject to the same penalties as are provided in section 1-17 exclusive of the provisions therein relative to commitment in the county jail.

(Code 2006, § 11-5-1)

State law reference(s)—Jurisdiction over traffic, boating, snowmobile and all-terrain vehicle violations, Wis. Stats. § 938.17.

Sec. 34-210. Enforcement and penalties.

- (a) *Citation process.* Juveniles may be cited by the citation process on a form approved by the town 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 by a person under the age of 18 years shall be punishable according to Wis. Stats. §§ 938.17(2), 938.343, 938.344 and 938.345. Nothing in this section shall prevent the juvenile officer, in his discretion, from referring cases directly to the district attorney's office.

(Code 2006, § 11-5-2)

Secs. 34-211—34-228. Reserved.

⁴State law reference(s)—Municipal truancy and school dropout ordinances, Wis. Stats. § 118.163; Juvenile Justice Code, Wis. Stats. § 939.01.

ARTICLE VIII. PUBLIC NUISANCES⁵

DIVISION 1. GENERALLY

Sec. 34-229. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Agricultural use means any beekeeping, commercial feed lots, dairying, egg production, floriculture, fish or fur farming, forest and game management, grazing, livestock raising, orchards, plant greenhouses and nurseries, poultry raising, raising of grain, grass, mint and seed crops, raising of fruits, nuts and berries, sod farming, placing land in federal programs in return for payments in kind, owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836, participating in the milk production termination program under 7 USC 1446(d), and vegetable raising.

Appliance means any household or office device, instrument, utensil, or apparatus or machine that utilizes power including, but not limited to, any stove, washer, dryer, refrigerator, dishwasher, freezer, water heater, water pump, furnace, television set, home entertainment device, any computer or peripheral device or other electronic device.

Building means any building or structure or any portion of a building or structure.

Debris means any litter, junk, wood, bricks, paper, cement, concrete blocks, or any other unsightly accumulation of items or materials that may tend to depreciate property values in the adjacent or near area, create a blighted condition, present a substantial threat to public health or safety, create a public nuisance or public safety or health hazard, except when such items are determined by the town board, town committee or other agent of the town to be stored or housed out of public view and are not treated and maintained so as to be a public nuisance.

Equipment goods means goods used or bought for use primarily in a business or profession, including farming and construction.

Hazardous waste means any solid waste identified by the state department of natural resources as hazardous under Wis. Stats. § 291.05(2) or its successor provisions.

Junk scrap means metal, metal alloy, wood, concrete, synthetic or organic material, or any junked, inoperative, unlicensed, or unregistered motor vehicle structures, equipment, furniture, appliances, or machinery, or any part thereof. This definition of junk includes refuse, used tires, parts of dismantled buildings, agricultural use equipment not in usable condition, parts of agricultural use equipment, and contaminated recyclable material.

⁵State law reference(s)—Nuisances generally, Wis. Stats. § 823.01 et seq.; municipal authority regarding nuisances, Wis. Stats. § 823.01; local regulation of wild animals, Wis. Stats. § 29.038; noxious weeds, Wis. Stats. § 66.0407; removal of rubbish, Wis. Stats. § 66.0405; dangerous buildings, Wis. Stats. § 66.0413; unlicensed places serving alcohol beverages as nuisance, Wis. Stats. § 125.14; town authority regarding captive wildlife, Wis. Stats. § 169.01; storage of junked vehicles as nuisance, Wis. Stats. § 175.25.

Junked means dismantled for parts or scrapped.

Junkyard means any place which is owned, maintained, operated or used for storing, keeping, processing, buying or selling junk, including refuse dumps, garbage dumps, automobile graveyards; scrap metal processors, auto wrecking yards, salvage yards, auto recycling yards, used auto parts yards and temporary storage of automobile bodies or parts awaiting disposal as a normal part of a business operation when the business will continually have like materials located on the premises, and sanitary landfills. The definition does not include litter, trash, and other debris scattered along or upon the highway, or temporary operations and outdoor storage of limited duration.

Local zoning and land use regulation means any applicable county, town, or extraterritorial zoning, subdivision, land division, platting, official map, building code, building permit, or other ordinance adopted pursuant to general police powers that is applicable in any manner to the use of land.

Machinery means a device or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means. The term "machinery" does not include a building.

Motor vehicle means a vehicle, including a combination of two or more vehicles or an articulated vehicle, that is self-propelled, except a vehicle operated exclusively on a rail, with or without a current and valid registration issued by this state or another state to the owner of the vehicles.

Not registered means, in reference to all-terrain vehicles as defined in Wis. Stats. § 340.01(2g), the term "snowmobiles" as defined in Wis. Stats. § 340.01(58a), or the term "boat" as defined in Wis. Stats. § 29.001(16), those that are required to, but do not have nor bear, any current and valid state registrations.

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

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Greatly offend the public morals or decency;
- (4) 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;
- (5) Any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located.

Recyclable material means material that is suitable for recycling.

Scrap metal processor means a fixed location at which machinery and equipment are utilized for the processing and manufacturing of iron, steel or nonferrous metallic scrap into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metal scrap for sale for remelting purposes.

Solid waste means any garbage, refuse, sludge, ash, paper, wood, metal, glass, cloth, plastic, lumber, concrete, food waste and other organics, boxes, barrels, and other containers, tires, debris, junk, and other like materials. The term "solid waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semisolid, or contained gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities, but does not include solids or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permits under Wis. Stats. ch. 283 or source material, as defined in Wis. Stats. § 254.31(10), special nuclear material as defined in Wis. Stats. § 254.31(11), or byproduct material as defined in Wis. Stats. § 254.31(1).

Solid waste facility.

- (1) The term "solid waste facility" means a facility for solid waste treatment, solid waste storage or solid waste disposal, and includes commercial, industrial, municipal, state and federal establishments or operations such as, without limitation because of enumeration, sanitary landfills, dumps, land disposal sites, incinerators, transfer stations, storage facilities, collection and transportation services and processing, treatment and recovery facilities. This term includes the land where the facility is located.
- (2) This term does not include a facility for the processing of scrap iron, steel or nonferrous metal using large machines to produce a principal product of scrap metal for sale or use for remelting purposes. This term does not include a facility which uses large machines to sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. This term does not include an auto junkyard or scrap metal salvage yard.

Town committee means a committee or commission established by the town board to address and aid in regulation of those uses and activities that may cause public nuisance or public health and safety threats in the town.

Unlicensed or unregistered means, in reference to motor vehicles, mobile homes, manufactured homes, boats, snowmobiles, camper trailers, recreational vehicles, truck bodies, semitrailers, or trailers, those that are required for operation in the state, but do not have nor bear required current and valid state licenses or registration.

Vehicle means every device in, upon, or by which any person or property is or may be transported. The term "vehicle" includes, but is not limited to, all of the following:

- (1) *Aircraft* as defined in Wis. Stats. § 29.001.
- (2) *All-terrain vehicles* as defined in Wis. Stats. § 340.01.
- (3) *Antique vehicles* as described in Wis. Stats. § 341.265.
- (4) *Automobiles* as defined in Wis. Stats. § 340.01.
- (5) *Boats* as defined in Wis. Stats. § 29.001.
- (6) *Camping trailers* as defined in Wis. Stats. § 340.01.
- (7) *Farm equipment* as defined in Wis. Stats. § 100.47.
- (8) *Farm tractors* as defined in Wis. Stats. § 340.01.
- (9) *Hobbyist or homemade vehicles* as defined in Wis. Stats. § 341.268.
- (10) *Junk vehicles* as defined in Wis. Stats. § 340.01.
- (11) *Implements of husbandry* as defined in Wis. Stats. § 340.01.
- (12) *Manufactured homes* as defined in Wis. Stats. § 101.91.
- (13) *Mobile homes* as defined in Wis. Stats. § 340.01.
- (14) *Mopeds* as defined in Wis. Stats. § 340.01.
- (15) *Motor bicycles* as defined in Wis. Stats. § 340.01.
- (16) *Motor buses* as defined in Wis. Stats. § 340.01.
- (17) *Motor homes* as defined in Wis. Stats. § 340.01.
- (18) *Motor trucks* as defined in Wis. Stats. § 340.01.
- (19) *Motorcycles* as defined in Wis. Stats. § 340.01.

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- (20) *Railroad trains* as defined in Wis. Stats. § 340.01.
 - (21) *Recreational vehicles* as defined in Wis. Stats. § 340.01.
 - (22) *Road machinery* as defined in Wis. Stats. § 340.01.
 - (23) *Road tractors* as defined in Wis. Stats. § 340.01.
 - (24) *Salvage vehicles* as defined in Wis. Stats. § 340.01.
 - (25) *School buses* as defined in Wis. Stats. § 340.01.
 - (26) *Semitrailers* as defined in Wis. Stats. § 340.01.
 - (27) *Snowmobiles* as defined in Wis. Stats. § 340.01.
 - (28) *Special interest vehicles* as defined in Wis. Stats. § 341.266.
 - (29) *Trailers* as defined in Wis. Stats. § 340.01.
 - (30) *Truck tractors* as defined in Wis. Stats. § 340.01.
 - (31) *Unlicensed demolition motor vehicles, unlicensed racing motor vehicles, and go-carts, garden tractors, riding lawn mowers, and other motorized tractors, motorized carts, and motorized utility vehicles* that require no state registration or licensure.

Wild animal means any animal of a wild nature that is normally found in the wild and that is not a domestic animal.

(Code 2006, § 11-6-2)

Sec. 34-230. Title; authority; public nuisances prohibited.

- (a) *Authority.* The town board has the specific authority under Wis. Stats. §§ 29.038, 66.0407, 66.0413, 125.14, 169.01 and 175.25, and Wis. Stats. ch. 823, and the general authority under its village powers under Wis. Stats. § 60.22(3), to adopt this chapter.
- (b) *Public nuisances prohibited.* No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the town.

(Code 2006, § 11-6-1)

Sec. 34-231. Public nuisances affecting health or safety.

No person may create, contrive, erect, maintain, cause, continue, install, construct or permit to exist in the town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to the public health or safety. The following acts, uses, activities, things, occupations, places or physical conditions, not properly and timely removed, after written notice to remove from the town board to any owner or occupant of the land where the act, use, activity, thing, occupation, place, or physical condition exists, is located, or occurred or to any person responsible for the creation, maintenance, or providing of the act, use, activity, thing, occupation, place, or physical condition, are specifically declared to be a public nuisance.

- (1) *Noxious weed areas.* Pursuant to section 58-19, any place in the town where noxious weed conditions are over one-foot high, are located on private or public land conditions and are not timely cut or removed within five days after posting or publication of a notice to destroy noxious weeds, under Wis. Stats. § 66.0407 and section 58-19, or within five days after receipt of written notice to remove such weeds from the town board or designee.

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- (2) *Unburied animal carcass areas.* Any place in the town where unburied domestic animal carcasses are located on private or public land and are not timely removed or discarded, including timely burial in a sanitary manner, within five days after receipt of written notice to remove such carcasses from the town board or designee. This subsection does not apply to any wild animal or pet cemetery approved in writing by the town.
 - (3) *Noxious or polluted or waste areas.* Any place in the town where manmade noxious, nauseous, unwholesome, or polluted water and waste are located on private or public land, including town roads, highways, bridges, sidewalks, alleys, or other public lands owned or controlled by the town, and these conditions are not timely removed within 30 days after receipt of written notice from the town board or designee.
 - (4) *Noxious odor emission areas.* Any place in the town where noxious odor, stench, or gas escape or is emitted into the open air from manmade sources located on public or private land, and these conditions are not timely removed or discontinued within 30 days after receipt of written notice to remove from the town board. The term "noxious odor" means an odor that is extremely repulsive to the senses of ordinary persons in the town that seriously annoys or causes serious discomfort or serious injury to the health or causes serious inconvenience to the health or safety of a significant number of persons within the town, as determined by the town board.
 - (5) *Rat or vermin areas.* Any place in the town where rats or other vermin are located or frequent on public or private land, and those conditions are not removed or destroyed within ten days after receipt of written notice to remove from the town board or designee.
 - (6) *Unauthorized human burial area.* Any place in the town where the body of a deceased person or parts of a deceased person are located and buried on private or public land in the town without written approval of the town board and are not timely removed within 30 days after receipt of written notice to remove from the town board. This subsection does not apply to any established cemetery or burial site grounds approved, owned and operated in accordance with Wis. Stats. ch. 157.
 - (7) *Hazardous, toxic or solid waste facility or site areas.* Any place or solid waste facility in the town where the discharge, disposal, storage or treatment of hazardous, toxic, or solid waste occurs on private or public lands without approval and licensing or permitting of the discharge, disposal, storage or treatment by all proper federal, state, county and town governing authorities and full compliance with all applicable laws, rules, regulations or ordinances of the federal, state, county or town, and the activity or condition is not timely removed or discontinued within 30 days after receipt of written notice to remove from the town board. To constitute a public nuisance under this subsection, an area, facility or site must threaten or cause serious discomfort or serious injury to the health or cause serious inconvenience to the health or safety of a significant number of persons within the town, as determined by the town board.
 - (8) *Dangerous wild animal areas.* Any place in the town where live, dangerous, wild animals are kept, sold, or in any manner controlled or possessed on private or public land without written approval of the town board and/or in violation of any applicable animal control ordinance in chapter 8, and the animals are not removed or destroyed within ten days after receipt of written notice from the town board unless written approval of the town board is obtained within said time. To constitute a dangerous wild animal, under this subsection, the species of animal must pose a threat to the safety of persons within the town, including a keeper of such animal, as determined by the town board. It is not necessary that the town board find that a specific animal is dangerous in order to find a nuisance under this subsection.
 - (9) *Improper sewage areas.* Any place in the town where effluent from a septic system, sewer, holding tank, cesspool, or other human waste container is located on private or public land and the effluent is

not timely removed or properly treated within ten days after receipt of written notice to remove from the town board or designee.

- (10) *Dangerous or dilapidated building areas.* Any place in the town where a building or structure, the contents therein, or any associated electrical, heat, water or sewer system located on public or private lands is so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, in violation of town ordinances, or otherwise render the building unfit for human habitation are not timely removed or discontinued within 30 days of receipt of written notice to remove from the town board or designee.
- (11) *Dangerous tree areas.* Any place in the town where any trees or the tree's limbs located on private or public lands constitute a dangerous or unsafe condition and these dangerous or unsafe conditions have not been timely removed within 30 days after receipt of written notice to remove from the town board or designee.
- (12) *Fire hazard areas.* Any place in the town where combustible materials are located and stored on private or public lands and the materials are not timely removed or safely stored within ten days after receipt of written notice from the town board, fire inspector or designee.
- (13) *Improper encroachment or discharge areas.* Any unauthorized or improper encroachments and discharges, including solid waste, trees, limbs, vehicles, structures, equipment, signs, manure, weeds, crops, and other materials on any town roadway or on other town public lands without written permission from the town board, and the improper or unauthorized encroachment or discharge is not timely removed or discontinued within 30 days of the receipt of written notice to remove from the town board or designee.
- (14) *Junked motor vehicle and junk part areas.* Any place in the town within 500 feet of the centerline of any town highway in the town, or within 750 feet of the centerline of any county trunk, state trunk, or federal highway where a junked motor vehicle or junk motor vehicle parts are accumulated or stored or any place in the town where a junked motor vehicle, junk vehicles or junk parts are accumulated or stored outside of a building for a period exceeding 72 hours if upon public property, or for a period exceeding 30 days if upon private property without obtaining a junked motor vehicle permit from the town in accordance with applicable town ordinances adopted under Wis. Stats. § 175.25 except when applicable exemptions apply.
- (15) *Junkyard and junked vehicle, appliance, and machinery areas.* Any place in the town where junked vehicles, not otherwise subject to subsection (14) of this section, junked appliances, junked equipment and junked machinery are accumulated or stored for a period exceeding 72 hours if upon public property, or for a period exceeding 30 days if upon private property and any place otherwise within the definition of "junkyard" elsewhere in this chapter that is not timely removed or discontinued within 30 days of receipt of written notice to remove from the town board or designee, unless applicable exemptions apply.
- (16) *Unlicensed or unregistered vehicle area.* Any place in the town where for a period exceeding 30 days upon private property a not-registered, unlicensed, or unregistered vehicle is parked, stored, or otherwise kept outside a building without the written permission of the town board or designee, that is not timely removed or discontinued within 30 days of receipt of written notice to remove from the town board or designee unless applicable exemptions apply.
- (17) *Abandoned vehicles on public lands.* No person regardless of physical condition, registration, or license held shall leave unattended or stored any motor vehicle or other vehicle, appliance, equipment, or machinery, or parts thereof, on any public street, public road, public highway, or public property in the town, including the road right-of-way, for such time and under such circumstances so as to cause the vehicle, appliance, equipment, or machinery to reasonably appear to have been abandoned. When any such vehicle, machinery, appliance, or equipment has been left unattended, parked, or stored on any public street, public road, public highway, or public property, including the town road right-of-way,

within the town for a period of more than 72 hours, the vehicle, structure, machinery, appliance or equipment is deemed by the town abandoned and to be a public nuisance.

(18) *Animals at large.* All animals running at large.

(19) *Abandoned wells.* All abandoned wells not securely covered or secured from public use.

(Code 2006, § 11-6-3)

Sec. 34-232. Public nuisances offending morals and decency.

No person shall create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the town a public nuisance associated with, causing or likely to cause, danger, disturbance, or injury to public morals or decency. The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed by the owner or occupant of the land, after written notice to remove from the town board or designee to the owner or occupant of the land where the public nuisance occurs or to any person responsible for the creation, maintenance, or permitting of such nuisance in the town, are specifically declared to be a public nuisance:

- (1) *Improper establishments.* Pursuant to Wis. Stats. § 823.09 whoever shall erect, establish, continue, maintain, use, occupy, or lease any building or part of a building, erection or place to be used for the purpose of lewdness, assignation or prostitution, or permit the same to be used in the state, shall be guilty of a nuisance and the building, erection, or place in or upon which such lewdness, assignation or prostitution is conducted, permitted, carried on, continued or exists, and the furniture, fixtures, musical instrument and contents used therewith for the same purpose, are declared a nuisance, and shall be enjoined and abated.
- (2) *Illegal drug houses.* Pursuant to Wis. Stats. § 823.113(1) any building or structure that is used to facilitate the delivery, distribution or manufacture, as defined in Wis. Stats. § 961.01(6), (9) and (13), respectively, of a controlled substance, as defined in Wis. Stats. § 961.01(4), or a controlled substance analog, as defined in Wis. Stats. § 961.01(4m), and any building or structure where those acts take place, is a public nuisance and may be proceeded against under Wis. Stats. § 823.113.
- (3) *Criminal gang houses.* Pursuant to Wis. Stats. § 823.113(1) any building or structure that is used as a meeting place of a criminal gang, as defined in Wis. Stats. § 939.22(9), or that is used to facilitate the activities of a criminal gang, is a public nuisance and may be proceeded against under Wis. Stats. § 823.113.
- (4) *Gambling houses.* Pursuant to Wis. Stats. § 823.20 any gambling place, as defined in Wis. Stats. § 945.01(4)(a), is a public nuisance and may be proceeded against under Wis. Stats. ch. 823.
- (5) *Illegal alcohol houses.* Pursuant to Wis. Stats. § 125.14(5), any building or place where alcohol beverages or alcohol is sold, possessed, stored, brewed, bottled, manufactured or rectified without a valid permit or license issued under this chapter or Wis. Stats. ch. 139, or where persons are permitted to drink alcohol beverages in violation of Wis. Stats. ch. 125 is a public nuisance and may be closed until the activity in violation of Wis. Stats. ch. 125 is abated. When the activity is abated, the building or place may be used for any lawful purpose.
- (6) *Continuous violation of town ordinances.* Any place or premises within the town where town ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

(Code 2006, § 11-6-4)

Sec. 34-233. Public nuisances affecting peace and safety.

No person shall create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in the town a public nuisance associated with, causing or likely to cause, potential danger, disturbance or injury to the public peace and order. The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed, after written notice to remove from the town board or designee to the owner or occupant of the land where the public nuisance occurred or is maintained or to any person responsible for the creation, maintenance, or permitting of such nuisance in the town, are specifically declared to be a public nuisance:

- (1) *Loud noise areas.* Any place in the town where any unreasonably loud, discordant and unnecessary sound conditions, including sounds from nonfarm animals or from any human created or aided sounds, including alleged music, is located on private or public land, without written approval of the town board or its designee and is not timely removed or discontinued within ten days of the written receipt of notice to remove from the town board or designee.
- (2) *Disorderly conduct areas.* Any place in the town where nonpermitted, abusive, indecent, profane, or boisterous sounds, nonpermitted fighting, brawling, or rioting or other unpermitted disorderly conduct conditions are located or occur on private or public lands and these disorderly conditions have not been timely removed or discontinued within ten days of receipt of written notice to remove from the town board or designee.
- (3) *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 official traffic device, sign or signal.
- (4) *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.
- (5) *Open excavations.* All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk.

(Code 2006, § 11-6-5)

Sec. 34-234. Public nuisance exemptions.

The following exemptions are granted:

- (1) *Motor vehicle storage.* Any storage of junked motor vehicles and vehicle parts on private lands in the town that is in conformity with local zoning and land use regulations and other applicable laws and ordinances for which the owners, operators, or persons otherwise responsible for the storage of the vehicles or parts have met the requirements established by the town board as authorized under Wis. Stats. § 175.23(3), may be exempt from the provisions of this chapter applicable to storage of junked motor vehicles and vehicle parts. The exemption granted under this subsection is strictly limited to the extent allowed by the permit under applicable ordinances.
- (2) *Junkyards.* Any operation of a junkyard on private lands in the town that is in conformity with local zoning and land use regulations, if appropriate conditional use permits have been issued, for which the owners, operators, or persons otherwise responsible for the operation of the junkyard have obtained all the proper and necessary federal, state, county, town and extraterritorial municipal approvals,

permits, or licenses for the operation or licenses for operation of a junkyard on that privately owned premises under Wis. Stats. § 84.31, may be exempt from the provisions of this chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this subsection is strictly limited to the extent allowed by the approvals, permits or licenses.

- (3) *Salvage operations.* Any commercial motor vehicle salvage or motor vehicle retail sales business on private lands in the town that is in conformity with local zoning and land use regulations for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current motor vehicle salvage dealer license under Wis. Stats. § 218.205, authorizing storage uses, operations and activities at property locations in the town or hold a current motor vehicle dealer license under Wis. Stats. § 218.0114 for salvage, sale, or storage operation and activities at a property location in the town, and are actively engaged in the town, as determined in writing by the town board, in the commercial motor vehicle salvage or motor vehicle retail sales business on property in the town, may be exempt from the provisions of this chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this subsection is strictly limited to the extent allowed by the applicable license/ordinance.
- (4) *Manufactured homes dealers.* Any business engaged in the retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on private lands in the town that is in conformity with local zoning and land use regulations for which the owners, operators, or persons otherwise responsible for the conduct of the business hold a current and valid manufactured home dealer's license under Wis. Stats. § 101.951, or a current and valid recreational vehicle dealer's license under Wis. Stats. § 218.12 issued by the state and are actively engaged in the town in the business of commercial retail sales of manufactured homes, mobile homes, camper trailers, or recreational vehicles on property in the town may be exempt from the provisions of this chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. The exemption granted under this subsection is strictly limited to the extent allowed by the applicable license.
- (5) *Permitted parking of vehicles.* Any parking, storage, or other keeping outside of buildings in the town of two or fewer unlicensed, inoperable, or unregistered motor vehicles or two or fewer boats, snowmobiles, or all-terrain vehicles, not registered with the state, on private lands owned or leased by the owner of the vehicles that is in conformity with local zoning, land use or other applicable regulations, even if the vehicles are not stored for purposes of sale or repair, may be exempt from the provisions of this chapter relating to the keeping and storage of unlicensed or unregistered vehicles.
- (6) *Agricultural machinery.* Any parking, storage, or other keeping of any agricultural use vehicles in the open on private lands in the town that is in conformity with local zoning, land use or other applicable regulations, by the owner or leaseholder of the land, if the vehicles are and can be used by the owner or leaseholder, without repair, for normal agricultural use in the town is exempt from the provisions of this chapter applicable to junked vehicles, junked machinery, junked appliances, or junked equipment and parts thereof. Notwithstanding anything contained in this subsection, storage of inoperable junk or other unrepaired agricultural use vehicles on private property of any person for more than 90 days in the open shall be deemed a violation of this chapter, unless the storage is at a commercial implement repair location where the equipment or implements can and will be timely repaired.

(Code 2006, § 11-6-6(a))

Secs. 34-235—34-261. Reserved.

DIVISION 2. PERMITS AND NUISANCE ABATEMENT

Sec. 34-262. Permits.

(a) *Exceptions allowed by permit.*

- (1) The town board may permit on public or private lands in the town, with or without conditions and restrictions:
 - a. The storage in the open on private premises vehicles, structures, machinery, appliances, or equipment in the town subject to section 34-233.
 - b. The maintenance of certain buildings, structures, or dwellings in the town subject to section 34-233.
 - c. The storage, disposal, treatment, or discharge of certain items, waste and materials in the town described in section 34-233.
- (2) Such applications are conditioned upon proper and timely application of an owner or occupant of the premises in the town to the town clerk for a permit, regardless of the ownership or possession rights to the vehicles, implements, machinery, structures, equipment, appliances, buildings, structures, dwellings, items, waste or materials to be stored, maintained, disposed, treated or discharged.
- (3) The town board may specify the quantity and manner, including the timeline, for such storage, maintenance, disposal, treatment, or discharge after a public hearing held by the town board pursuant to subsection (b) of this section.

(b) *Hearing; determinations; conditions.* The applicant shall be notified of the public hearing required under subsection (a)(3) of this section at least 20 days before the public hearing by the mailing by U.S. mail of a first class notice letter to the last known address of the applicant noted on the application. The permit shall be for a specific location and may be established for a term of months or years and may be reissued upon application by the permit holder if the permit holder is in full compliance with this chapter and with the permit conditions and restrictions as issued. The conditions and restrictions, if any, in the permit established by the town board for such storage, maintenance, disposal, treatment, or discharge shall be reasonable restrictions and conditions to protect the public health, safety, and welfare of persons within the town and to limit or negate potential public nuisances caused by such storage, maintenance, disposal, treatment or discharge. The conditions and restrictions shall be stated in writing and attached to the written permit upon issuance by the town board. The owner or occupant of the permitted premises shall be responsible for compliance with the conditions and restrictions in the permit issued regardless of whether the owner or occupant of the premises has any legal or equitable interest in the vehicles, structures, machinery, appliances, or equipment subject to the permit.

(Code 2006, § 11-6-6(b))

Sec. 34-263. Abatement of public nuisances; permit revocation.

(a) *Inspection of premises.*

- (1) *Complaints.* Whenever one or more complaints are made to the town board, town clerk, town chairperson or town constable that a public nuisance under this chapter or a violation of a permit issued under this chapter exists within the town, or a town official in his official capacity has determined that a public nuisance exists, the town chairperson or town constable may inspect or cause to be inspected the premises complained of, and then make a written report of its findings to the town board. Whenever practicable, the town chairperson or town constable shall cause photographs to be made of the premises and shall file the photographs with a written report in the office of the town clerk.

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- (2) *Noncompliance hearing.* If the person subject to complaint has a current permit under this chapter, any town building permit or junked motor vehicle permit issued under Wis. Stats. § 175.25, the town chairperson may immediately request the town board to hold a public hearing, to consider suspension or revocation of the permit, for refusal to comply with the permit and the conditions attached therein. The town board shall hold a public hearing prior to taking any action to revoke or suspend a permit. The permit holder shall be notified of the public hearing at least 20 days before the public hearing by the mailing by U.S. mail of a first class notice letter to the last known address of the permit holder noted on the permit or permit application.
- (3) *Suspension option.* The town board may, in the alternative to revocation, suspend any issued permit for a period up to six months. Any revocation shall be in excess of six months and no reapplication can be received or acted upon by the town board for the premises or for the owner or occupant of the premises for any activity, use, or item prohibited by or requiring a permit under this chapter during the revocation period.
- (4) *Determinations.* For any decision regarding the revocation or suspension of any permit, the town board shall determine and state the reason for any revocation, non-revocation, or suspension of the permit based on the lack of compliance with the permit conditions and this chapter by the permit holder or by any employees or agents of the permit holder. The reason for the decision shall be stated in writing and sent to the permit holder within ten days after the decision by the town board by mailing by U.S. mail of a first class letter to the last known address of the permit holder noted on the permit or permit application.
- (b) *Owner of premises responsibility.* Any owner or occupant of land in the town shall be responsible for compliance with this chapter and other applicable ordinances on the land regardless of ownership of and responsibility for the uses, activities, or things located on the land that are subject to this chapter.
- (c) *Summary abatement in emergency situations.*
- (1) *Notice to owner.* If the town chairperson and the town board determines that a public nuisance exists under this chapter within the town on private or public land and that there is great, immediate, and substantial danger or threat to the public health or safety, the town board shall serve a written notice upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained. If immediate personal service cannot be made, one copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises, the person who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall be served by mailing by U.S. mail of a first class letter to the last known address for the owner or occupant of the premises. The order notice shall direct the owner or occupant to remove the public nuisance within 24 hours and shall state that unless the public nuisance is so timely abated, the town may cause, due to the emergency conditions, the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or maintaining the public nuisance.
- (2) *Abatement by town in emergency situations.* If the public nuisance is not abated within the time provided in the notice under subsection (c)(1) of this section, or if the owner, occupant, or person causing the public nuisance, if known, cannot be found, the town board shall cause the abatement or removal of the public nuisance by immediately seeking for the town a court order that allows for the immediate enjoinder and abatement of the public nuisance.
- (d) *Abatement by court action.* If the town board determines that a public nuisance exists on public or private premises but that the nature of the nuisance does not threaten great, immediate, and substantial danger to the public health or safety, the town board shall file a written report or its resolution of its findings with the town clerk who shall, after approval and filing of the report or resolution by the town board, take one or more of the following actions, as directed by the town board:

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- (1) *Notice.* Contact in writing the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located with a notice order to cease and desist the public nuisance;
 - (2) *Citation.* Issue or have issued and served a citation upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located for violation of this chapter; and/or
 - (3) *Civil complaint.* Cause the town attorney to draft a formal civil complaint to be filed upon the alleged violators based upon an alleged violation of this section or the conditions of any permit as issued, or have drafted by the town attorney, to be filed and served, a formal complaint for abatement of the public nuisance under Wis. Stats. ch. 823.
- (e) *Other methods not excluded.* Nothing in this chapter shall be construed as prohibiting the enjoinder and abatement of public nuisances against any person by the town, or its officials, in accordance with the laws of the state or this chapter, including against a permit holder that holds a current and valid permit issued by the town under this chapter.
- (f) *Citations.* The town board may enforce against such public nuisance violations in this chapter by issuance and service of a citation against any alleged violation of this chapter.

(Code 2006, § 11-6-7)

Sec. 34-264. Costs of abatement/disposal.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance, or maintenance of a public nuisance and violation of this chapter, the cost of abatement of any public nuisance by the town may be collected under this chapter or Wis. Stats. § 823.06, as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the town to enjoin or abate the public nuisance as a special charge under Wis. Stats. § 66.0627, unless paid earlier. If any vehicle, structure, equipment, implement, or appliance noted in this chapter is abandoned or remains unclaimed, the town board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under Wis. Stats. § 66.0139, by public auction or other means as determined in writing by the town board.

(Code 2006, § 11-6-8)