

## **CHAPTER 11    OFFENSES AND NUISANCES**

- 11.01    Offenses Against State Laws Subject to Forfeiture**
- 11.02    Penalties; Attempt; Parties to Acts**
- 11.03    Regulation of Firearms, Explosives, and Other Missiles**
- 11.04    Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited**
- 11.05    Safe Use and Transportation of Firearms and Bows**
- 11.06    Sale and Discharge of Fireworks Restricted**
- 11.07    Obstruction of Streets and Sidewalks Prohibited**
- 11.08    Loitering Prohibited**
- 11.09    Loud and Unnecessary Noise Prohibited**
- 11.10    Disorderly Conduct**
- 11.11    Unauthorized Presence on School Property**
- 11.12    Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited**
- 11.13    Destruction of Property Prohibited**
- 11.14    Littering Prohibited**
- 11.15    Abandoned Refrigerators Prohibited**
- 11.16    Damage to Public Property**
- 11.17    Retail Theft**
- 11.18    Trespass to a Dwelling or Land**
- 11.19    Theft Prohibited**
- 11.20    Outside Consumption**
- 11.21    Sale to Underage or Intoxicated Persons Restricted**
- 11.22    Underage Persons Presence in Places of Sale; Penalty**
- 11.23    Underage Persons; Prohibitions; Penalties**
- 11.24    Defense of Sellers**
- 11.25    Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards**
- 11.26    Possession of Alcohol Beverages on School Grounds Prohibited**
- 11.27    Adult Permitting or Encouraging Underage Violation**
- 11.28    Solicitation of Drinks Prohibited**
- 11.29    Curfew**
- 11.30    Possession of Controlled Substances by Juveniles**
- 11.31    Petty Theft by Juveniles**
- 11.32    Receiving Stolen Goods**
- 11.33    Village Jurisdiction Over Persons 12 Through 17 Years of Age**
- 11.34    Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor Prohibited**
- 11.35    Truancy**
- 11.36    Unlawful Sheltering of Minors**
- 11.37    Purchase or Possession of Tobacco Products**
- 11.38    Enforcement and Penalties**
- 11.39    Public Nuisances Defined**
- 11.40    Public Nuisances Prohibited**

- 11.41 Public Nuisances Affecting Health**
- 11.42 Public Nuisances Offending Morals and Decency**
- 11.43 Public Nuisances Affecting Peace and Safety**
- 11.44 Abatement of Public Nuisances**
- 11.45 Cost of Abatement**
- 11.46 Enforcement; Penalty**
- 11.47 Definitions**
- 11.48 Purpose**
- 11.49 Disposition of Abandoned Vehicles**
- 11.50 Impoundment Procedure**
- 11.51 Costs of Impoundment**
- 11.52 Immediate Disposition of Certain Vehicles**
- 11.53 Junked Vehicles and Appliances on Private Property**
- 11.54 Resisting or Obstructing Officer**
- 11.55 Unlawful Use of Computerized Communication Systems**

## CHAPTER 11 OFFENSES & NUISANCES

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### SECTION 11.01 Offenses Against State Laws Subject to Forfeiture.

The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the Village of Arlington. The penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions set forth in Section 1.06 of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code.

118.07	Safety Requirements
118.08	School Zones; Crossings
118.09	Safety Zones
118.10	School Safety Patrols
118.105	Control of Traffic on School Premises
118.11	School Fences
118.123	Reports and Records; Forfeitures
118.163	Municipal Truancy and School Drop Out Ordinances
134.65	Cigarette and Tobacco Products Retailer License
134.66	Restrictions on Sale or Gift of Cigarettes or Tobacco Products
167.10	Regulation of Fireworks
173.10	Investigation of Cruelty Complaints
939.05(2)(b)	Aiding and Abetting
939.22	Words and Phrases Defined
940.19(1)	Battery
940.291	Law Enforcement Officer; Failure to Render Aid
941.01	Negligent Operation of a Vehicle
941.10	Negligent Handling of Burning Material
941.12	Interfering With Firefighting
941.13	False Alarms
941.20	Endangering Safety by Use of Dangerous Weapon
941.23	Carrying Concealed Weapon
941.235	Carrying Firearm in Public Building
941.24	Possession of Switchblade Knife
941.35	Emergency Telephone Calls
941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
941.37(1),(2)	Obstructing Emergency or Rescue Personnel
942.05	Opening Letters
943.01	Damage to Property
943.11	Entry into Locked Vehicle
943.125	Entry into Locked Coin Box

943.13	Trespass to Land
943.14	Trespass to Dwellings
943.145	Trespass to a Medical Facility
943.15	Entry onto Construction Site or into Locked Building Dwelling or Room
943.20	Theft
943.21	Fraud on Hotel, or Restaurant Keeper, Recreational Attraction, Taxicab Operators or Gas Station
943.22	Use of Cheating Tokens
943.23	Operating Vehicle Without Owner's Consent
943.34(1)(a)	Receiving Stolen Property
943.37	Alteration of Property Identification Marks
943.38(3)	Forgery
943.41	Financial Transaction Card Crimes
943.50	Retail Theft
943.55	Removal of Shopping Cart
944.15	Public Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.21	Obscene Material or Performance
944.23	Making Lewd, Obscene or Indecent Drawings
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.36	Solicitation of Drinks Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42	Escape
946.46	Encouraging Violation of Probation Extended Supervision or Parole
946.69	Falsely Assuming to Act as Public Officer or Employee or a Utility Employee
946.70	Impersonating Peace Officer
946.72	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.06	Unlawful Assemblies and their Suppression
948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse With a Child Age 16 or Older
948.10	Exposing Genitals in Public Area
948.11	Exposing a Child to Harmful Material or Harmful

	Descriptions or Narratives
948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.50	Strip Search by School Employee
948.51	Hazing
948.60	Possession of a Dangerous Weapon by a Person Under 18
948.61	Dangerous Weapons Other than Firearms on School Premises
948.63	Receiving Property From a Child
951.01	Definitions Relating to Crimes Against Animals
951.015	Construction and Application
951.02	Mistreating Animals
951.03	Dog-napping and Cat-napping
951.04	Leading Animal from Motor Vehicle
951.05	Transportation of Animals
951.06	Use of Poisonous and Controlled Substances
951.07	Use of Certain Devices Prohibited
951.08	Instigating Fights Between Animals
951.09	Shooting at Caged or Staked Animals
951.10	Sale of Baby Rabbits, Chicks and Other Fowl
951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter
951.15	Abandoning Animals

## **SECTION 11.02 Penalties; Attempt; Parties to Acts.**

### **(a) Penalty.**

- (1) In addition to the general penalty provisions of this Code in Section 1.06 or any other penalty specifically 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.
- (2) The parent or parents of any unemancipated minor child who violates Section 11.13 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the referral of violations of the provisions of this Title to the District Attorney's office for prosecution.

### **(b) Attempt.**

- (1) Whoever attempts to commit an act prohibited by this Chapter may be required to forfeit amounts not to exceed the maximum penalty for the completed act.
  - (2) An attempt to commit an act prohibited by this Chapter requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that he does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.
- (c) **Parties to Acts.**
- (1) Whoever participates in the commission of an act prohibited by this Chapter may be charged with and convicted of the commission of said act although he did not directly commit it and although the person who directly committed it has not been convicted of an act prohibited by this Chapter.
  - (2) A person participates in the commission of an act prohibited by these ordinances if he:
    - a. Directly commits the act; or
    - b. Intentionally aids and abets the commission of it; or
    - c. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such party also participates in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the act be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

**SECTION 11.03 Regulation of Firearms, Explosives, and Other Missiles.**

- (a) **Definitions.** For purposes of this Chapter, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.
- (b) **Discharge of Firearms Regulated.** No person, except a law enforcement officer in the performance of an official duty or such persons as may be authorized to carry such weapons, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun or bow and arrow of any description in his possession or under his control within the boundaries of the Village of Arlington. This Section shall not prevent the firing or discharging of BB guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or guardian.
- (c) **Hunting Prohibited.** Hunting within the Village of Arlington is prohibited.

- (d) **Shooting Into Village Limits.** No person shall in the territory adjacent to the Village of Arlington discharge any firearm or bow and arrow in such manner that the discharge shall enter or fall within the Village of Arlington.
- (e) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Arlington Village Board where proper safety precautions are taken.
- (f) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the Village limits without first obtaining a permit to do so from the Village Board.
- (g) **Throwing or Shooting of Stones or Other Missiles Prohibited.**
  - (1) It shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot or other means within three hundred (300) feet of any dwelling, building or public park, square or enclosure. Except as provided in Subsection (g)(2) below, no person shall discharge a bow and arrow within the Village of Arlington.
  - (2) This Subsection shall not apply:
    - a. To the shooting or discharging of toy arrows or arrows which have a tip made of rubber or similar material;
    - b. To a supervised archery range approved by the Village of Arlington Board;
    - c. Within the interior of a single family dwelling.

**SECTION 11.04 Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited.**

- (a) **Concealed Weapons Prohibited.**
  - (1) **Dangerous Weapon Defined.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
  - (2) **Prohibition.** No person shall, within the Village of Arlington, wear or in any manner carry under his clothes or conceal upon or about his person any deadly or dangerous weapon. This Subsection shall not apply to a law enforcement officer or such persons as may be authorized to carry such weapons.
- (b) **Concealed Weapons in Public Establishments.** No person shall carry or possess a dangerous weapon in any business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and concealed (other than on the person) so as not to be readily-accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties or such persons as may be authorized to carry such weapons. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective

customer from attempting to buy, sell, or trade firearms to or from a retailer. This Subsection shall not be construed to prohibit an owner or tenant of a business establishment from permitting such persons as may be authorized to carry such weapons from carrying those weapons upon the premises.

- (c) **Specific Concealed Weapons Prohibited.** No person, except a law enforcement officer acting within the scope of his duties or such persons as may be authorized to carry such weapons, shall carry or wear concealed about his person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the Village of Arlington.

(d) **Firearms in Public Buildings**

(1) Pursuant to Sec. 943.13(1m)(c)4, Wis. Stats., no person shall enter or remain in any part of a building owned, occupied or controlled by the Village of Arlington if the Village of Arlington has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm.

(2) The Village Administrator shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the Village of Arlington providing notice that no such person is to enter or remain in any such building while carrying a firearm. Such signs shall be five inches by seven inches or larger.

(3) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Village Administrator to possess a firearm in any public building. Notwithstanding Sec. 939.22(22), Wis. Stats., for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.

(4) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Sec. 941.23 or 941.235, Wis. Stats.

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

(1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a “numchuk” (also called a “nunchaku”) or any similar weapon, a “cestus” or similar material weighted with metal or other substance and worn on the hand, a “churkin” (also called a “sunken”) or any similar object intended to injure a person when thrown, a “sucbai” or similar weapon, a “manrikigusari” or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the Village of Arlington.

(2) For the purpose of this Section, the following definitions shall apply:



- a. **“Numchuk” or “Nunchaku.”** An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
  - b. **“Churkin.”** A round throwing knife consisting of several sharp points protruding from a rounded disc.
  - c. **“Sucbai.”** A short length of wood or metal or similar material which, when gripped in the, hand, protrudes on either side of the fist. Such prohibited instrument may or may not have spikes or short pointed protrusions from either end.
  - d. **“Manrikigusari.”** A traditional Japanese chain weapon with two steel weights on the ends designed to strike, ensnare or trip an opponent.
- (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.
- (f) **Reckless Use of Weapons.**
- (1) **Reckless Conduct Defined.** “Reckless conduct” consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to risk perpetrating an injury.
  - (2) **Acts Prohibited.**
    - a. No person shall endanger another’s safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.
    - b. No person shall possess a firearm, air gun, knife or bow and arrow while he is under the influence of an intoxicant.
    - c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.

**SECTION 11.05 Safe Use and Transportation of Firearms and Bows.**

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

- c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.
  - (7) **Vehicle** has the meaning given under Sec. 340.01(74), Wis. Stats. This definition also includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats. and an all-terrain vehicle, as defined under Sec. 340.01(2g), Wis. Stats.
- (b) **Prohibitions; Vehicles, Highways and Roadways.**
  - (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (2) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
  - (4) A person who violates Subsections (1) through (4) above is subject to a forfeiture as outlined in the Village Deposit Schedule.
- (c) **Exceptions.**
  - (1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle or aircraft or discharge a firearm in, on or from a vehicle or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
    - a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
    - b. A member of the U.S. armed forces.
    - c. A member of the National Guard.
  - (2) Subsections (b)(1) and (2) do not apply to the holder of a scientific collector permit under Sec. 29.614, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
  - (3) Subsections (b)(1) and (2) do not apply to the holder of a permit under Sec. 29.193(2) Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.
  - (4) Subsection (b) does not apply to the holder of a concealed weapon permit under Sec. 175.60, Wis. Stats., who possesses a concealed weapon in accordance with that Section.

## **SECTION 11.06 Sale and Discharge of Fireworks Restricted.**

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village of Arlington unless he shall be authorized by a fireworks permit as provided in Chapter 7, of this Code of Ordinances. The term "fireworks" as used in this Section

shall be defined as provided in Section 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

#### **SECTION 11.07 Obstruction of Streets and Sidewalks Prohibited.**

- (a) **Definitions.** As used in this Chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
- (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason or lawful purpose.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Arlington.
  - (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
  - (4) **Sidewalk.** Any sidewalk owned or maintained by the Village of Arlington. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (b) **Obstructing Streets.** No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village of Arlington in such a manner as to:
- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any private residence, place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (c) **Obstructing Sidewalk Prohibited.** No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.
- (d) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

#### **SECTION 11.08 Loitering Prohibited.**

- (a) **Public Property Loitering Prohibited.**

- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any 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.
  - (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.
  - (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate.
- (b) **Private Property Loitering Prohibited.**
- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public buildings at such times that the same shall be closed for the usual and normal business conducted there at.
  - (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.
  - (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.
  - (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.
- (c) **Loitering or Prowling Prohibited.**
- (1) 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 law enforcement officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any firearm 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.

- (2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.
  - (3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.
  - (4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this Subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.
- (d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**
- (1) **Underage Persons and Intoxicants.** No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
  - (2) **Permitting Loitering Prohibited.** No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (e) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the sworn law enforcement first affords such persons an opportunity to explain such conduct, and no one shall be convicted under this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:
- (1) **Public Place** is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether moving or not, and buildings open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.

- (2) **Known Prostitute or Panderer** means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

**SECTION 11.09 Loud and Unnecessary Noise Prohibited.**

- (a) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- (b) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
- (1) **Horns, signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village of Arlington for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
  - (2) **Radios, phonographs, similar devices.** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this Section.
  - (3) **Loudspeakers, amplifiers for advertising.** The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

- (4) **Animals, birds.** The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
  - (5) **Construction or repair of buildings.** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays; provided, however, the Village President shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 9:00 p.m. to 7:00 a.m. or on Saturday between the hours of 7:00 a.m. to 9:00 p.m.
  - (6) **Schools, courts, churches, hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
  - (7) **Exceptions.** The provisions of this Section shall not apply to:
    - a. Any vehicle of the Village of Arlington while engaged in necessary public business.
    - b. Excavations or repairs of streets or other public construction by or on behalf of the Village, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
    - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
- (c) **Permits for Amplifying Devices.**
- (1) **Permit Required.** The use of loudspeakers or other amplifying devices on the streets or in the parks (other than for Board-authorized athletic or community events) of the Village of Arlington is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Village President.
  - (2) **Grounds or Reasons for Denial or Allowance.** The Village President shall have the authority to revoke such permit when he believes such loudspeaker or other amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.

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

#### **SECTION 11.10 Disorderly Conduct.**

- (a) **Disorderly Conduct Prohibited.** No person within the Village of Arlington 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;
  - (3) With intent to annoy another, make a telephone call, whether or not conversation ensues;
  - (4) Indecently expose his or her person;
  - (5) Be in any business or private structure, private vehicle or upon any private grounds without the consent of the owner.
- (b) **Defecating or Urinating In Public Places.** It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the Village of Arlington or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.

#### **SECTION 11.11 Unauthorized Presence on School Property.**

- (a) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:
  - (1) **Loiter.** To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Arlington.
- (b) **Unauthorized Presence.**
  - (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the Village of Arlington or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the school principal or other person in



charge of the school building or school grounds, except while in direct route to secure such authorization. Any unauthorized person who shall come upon school property and refuses to leave upon request of the school principal or any person acting under the direction of the school principal in addition to violating Subsection (a)(l), shall be guilty of trespass.

- (2) "Authorized person" shall include:
- a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;
  - b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
  - c. Any person utilizing a designated area for attending an athletic or other organized school event.

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

- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the school system's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
- (3) All entrances to the school buildings referred to in Subsection (b) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
- (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation of this subsection. Such vehicle may be issued a Village of Arlington summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property. All vehicles towed pursuant to this paragraph shall be towed at owner's expense.

(d) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Arlington or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.

- (e) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.

**SECTION 11.12 Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited.**

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

**SECTION 11.13 Destruction of Property Prohibited.**

- (a) **Destruction of Property.** No person shall willfully injure or intentionally deface, destroy, or unlawfully remove or interfere with any property belonging to the Village of Arlington, the Poynette School District, or to any private person or entity without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice, or other writing upon any utility ornamental light pole belonging to the Village of Arlington without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by a law enforcement officer or the placing person or organization cited for violation of this Section.
- (b) **Parental Liability.** The provisions of Section 895.035 of the Wisconsin Statutes regarding parental liability to the acts of minor children are hereby incorporated by reference.
- (c) **Penalty Provisions.**
  - (1) Any person eighteen (18) years of age or over who violates this Section is subject to a penalty as provided as outlined in the Village Deposit Schedule., and the costs of prosecution.
  - (2) Any person fourteen (14) years of age to seventeen (17) years of age shall be subject to a forfeiture as outlined in the Village Deposit Schedule and any other applicable penalty provided by Sec. 938.343. Wis. Stats., as that Section may exist, be amended or changed.
- (d) **Victim Remedies.** Any person or entity injured by a violation of this Section by a minor child shall be advised of the rights and remedies available under Sec. 895.035, Wis. Stats.

**SECTION 11.14 Littering Prohibited.**

- (a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village of Arlington, or upon property within the Village owned by the

Poynette School District or upon property owned by any private person within the Village of Arlington.

- (b) **Litter From Conduct of Commercial Enterprise.**
- (1) **Scope.** The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.
  - (2) **Litter to be cleaned up.** Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any public property, street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
  - (3) **Litter Picked up at Litterer's Expense.** If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(2) within the time specified, the Village of Arlington shall arrange to have the same picked up by Village of Arlington crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Village Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.
- (c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit or permit to be deposited, any vegetation, grass, leaves, foliage, earth, sand, gravel, water, snow, ice, debris, waste material, foreign substance, construction materials, equipment or object upon any street, sidewalk or public property without authorization of the Village Board or Superintendent of Public Works, or upon any private property without the consent of the owner or lessee of the property. Any person who is permitted to deposit any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.
- (d) **Handbills.**
- (1) **Scattering Prohibited.** It shall be unlawful to deliver any handbills or advertising material to any premises in the Village of Arlington except by being handed to the recipient, placed on the porch, stoop or entrance way of the building or firmly affixed to a building so as to prevent any such articles from being blown about, becoming scattered or in any way causing litter.
  - (2) **Papers In Public Places Prohibited.** It shall be unlawful to leave any handbills, advertising material or newspapers unattended in any street, alley, public building or other public place, provided that this shall not prohibit the sale of newspapers in vending machines.
- (e) **Penalty.** Any person, firm, or corporation who fails to comply shall be issued forfeiture as outlined in the Village Deposit Schedule.

### **SECTION 11.15 Abandoned Refrigerators Prohibited.**

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing said door or lid, snap lock or other locking device from said ice box, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

### **SECTION 11.16 Damage to Public Property.**

- (a) **Damaging Public Property.** No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Village of Arlington.
- (b) **Breaking of Street Lamps or Windows.** No person shall break glass in any street lamps or windows of any building owned or occupied by the Village of Arlington.
- (c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of Village of Arlington authorities, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

### **SECTION 11.17 Retail Theft.**

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

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

- (d) **Penalty.** Shall be as outlined in the Village Deposit Schedule and may be referred to the District Attorney for criminal prosecution.

#### **SECTION 11.18 Trespass to a Dwelling or Land.**

- (a) **Trespass to Land.** No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.
- (b) **Trespass to Dwelling.** No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premises under circumstances tending to create or provoke a breach of the peace.

#### **SECTION 11.19 Theft Prohibited.**

- (a) **Definitions.** The following definitions shall be applicable in this Section:
  - (1) **Property.** All forms of tangible property, whether real or personal, including, but not limited to, electricity, gas and documents which represent or embody a choice in action or other intangible rights.
  - (2) **Movable Property.** Property whose physical location can be changed, without limitation, including electricity and gas, documents which represent or embody intangible rights, and things growing on or affixed to or found in land.
  - (3) **Value.** The market value at the time of the theft or the cost to the victim of replacing the property within the reasonable time after the theft, whichever is greater; if the property stolen is a document evidencing a choice in action or other intangible right, value means either the market value of the choice in action or other right or the intrinsic value of the document, whichever is greater. If the thief gave consideration for or had a legal interest in the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.
  - (4) **Property of Another.** Property in which the actor is a co-owner and property of a partnership of which the actor is a member unless the actor and the victim are husband and wife.
- (b) **Acts.** Whoever does any of the following may be penalized as provided in Section 1.06 of this Code of Ordinances or as outlined in the Village Deposit Schedule, whichever is most appropriate:
  - (1) Intentionally takes and carries away, uses, transfers, conceals or retains possession of movable property of another without his consent and with intent to deprive the owner of possession of such property.

- (2) By virtue of his office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or other negotiable writing of another, intentionally uses, transfers, conceals or retains possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his authority, and with intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing, which is in his possession or custody by virtue of his office, business or employment, or as trustee or bailee, upon demand of the person entitled to receive it, or as required by law, is prima facie evidence of an intent to convert to his own use within the meaning of this Subsection.
- (3) Having a legal interest in movable property, intentionally and without consent, take such property out of the possession of the pledgee or such other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- (4) Obtains title to property of another by intentionally deceiving him with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- (5) Intentionally fails to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement, within ten (10) days after the lease or rental agreement has expired.

## **SECTION 11.20 Outside Consumption.**

### **(a) Definitions.**

- (1) **Alcoholic beverage** shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
- (2) **Public area** shall be construed to mean any location within the Village of Arlington which is open to access to persons not requiring specific permission of the owner to be at such location, including all parking lots serving commercial establishments.
- (3) **Underage person** shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

### **(b) Alcoholic Beverages in Public Areas.**

- (1) **Regulations.** It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, cemetery or other public area within the boundaries of the Village of Arlington or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public alley, public parking lot, cemetery or other public area within the boundaries of the Village of Arlington.
- (2) **Private Property Held Out For Public Use.** It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the Village of Arlington unless the property is specifically named as being part of a licensed premises.
- (3) **Exceptions.**
  - a. The provisions in this section may be waived by the Village Board for duly authorized events.
  - b. Any organization which has been issued a Temporary Fermented Malt Beverage and/or Temporary Wine License for a designated area pursuant to this Code of Ordinances, provided that the provisions of this Chapter and Chapter 16 are fully complied with.
- (4) **Public Intoxication.** No person shall, within the Village, be found in a public place in such a condition of physical or mental impairment from the use of alcohol or other drugs that he or she is unable to care for his or her own safety.

#### **SECTION 11.21 Sale to Underage or Intoxicated Persons Restricted.**

- (a) **Sales of Alcohol Beverages to Underage Persons.**
  - (1) No person may procure for, sell, dispense or give away any alcoholic beverage to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
  - (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
  - (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcoholic beverages by an underage person on premises owned by the adult or under the adult's control. This Subsection does not apply to alcoholic beverages used exclusively as part of a religious service.
- (b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:
  - (1) Not more than two hundred dollars (\$200.00) if the person has not committed a previous violation within twelve (12) months of the violation; or

- (2) Not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.
- (3) In addition to the forfeitures provided in Subsections (1) and (2) above, a court shall suspend any license issued under this Chapter to a person violating this Section for:
  - a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one (1) previous violation;
  - b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
  - c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.
- (c) **Sale of Alcoholic Beverages to Intoxicated Persons.**
  - (1) No person may procure for, sell, dispense or give away alcoholic beverages to a person who is intoxicated.
  - (2) No licensee or permittee may sell, vend, deal or traffic in alcoholic beverages to or with a person who is intoxicated.
- (d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

**SECTION 11.22 Underage Persons' Presence in Places of Sale; Penalty.**

- (a) **Restrictions.** An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may not enter or be on any premises for which a license or permit for the retail sale of alcoholic beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be for amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally would constitute activities of a customer of the premises. This paragraph does not apply to:
  - (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
  - (2) An underage person who enters or is on a Class "A" or "Class A" premises for the purpose of purchasing items other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
  - (3) Hotels, drug stores, grocery stores, bowling alleys, service stations, vessels, cars operated by any railroad, regularly established athletic fields,



stadiums or public facilities as defined in Sec. 125.51(5)(b)1.d., Wis. Stats., which are owned by a county or municipality.

- (4) Public forests as defined or designated in Chapters. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
  - (5) Ski chalets, golf courses and golf clubhouses and private tennis clubs.
  - (6) Premises operated under both a “Class B” alcoholic beverage or Class “B” fermented malt beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a “Class B” alcoholic beverage or Class “B” fermented malt beverage license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcoholic beverages, but the presumption may be rebutted by competent evidence.
  - (7) An underage person who enters or remains on a “Class B” alcoholic beverage or Class “B” fermented malt beverage premises for the purpose of transacting business at an auction or market, if the person does not enter or remain in a room where alcoholic beverages are sold, furnished or possessed.
  - (8) Class “B” fermented malt beverage licensed premises separate from any room where alcoholic beverages are sold or served for the purpose of engaging in marching or drilling with a group of other persons if no alcoholic 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.
  - (9) A person who is at least eighteen (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 alcoholic 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 a person who has an operator’s license shall be on the premises unless all alcoholic beverages are stored in a locked portion of the premise. The licensee shall notify the local 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 alcoholic beverages are sold, if there is a separate entrance to the dance hall and if no alcoholic beverages are furnished or consumed by any person in the dance hall where the underage person is present.
- (b) **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premises in violation of Subsection (a) is subject to a forfeiture of not more than five hundred dollars (\$500.00).

## **SECTION 11.23 Underage Persons; Prohibitions; Penalties.**

- (a) Any underage person who does any of the following is guilty of a violation:
  - (1) Procures or attempts to procure alcohol beverages 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 11.22.
  - (4) Falsely represents his or her age for the purpose of receiving alcohol beverages from a licensee or permittee.
- (b) Except as provided in Sec. 125.07(4)bm, Wis. Stats., any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes fermented malt beverages is guilty of a violation.
- (c) Any person violating Subsections (a) or (b) is subject to forfeitures as outlined in the Village Deposit Schedule and the following penalties:
  - (1) For a first violation, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b), Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  - (2) For a violation committed within twelve (12) months of a previous violation, suspension of the person's operating privilege as provided under Sec. 343.30(6)(b), Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  - (3) For a violation committed within twelve (12) months of two (2) previous violations, revocation of the person's operating privilege under Sec. 343.30(6)(b), Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  - (4) For a violation committed within twelve (12) months of three (3) previous violations, revocation of the person's operating privilege under Sec. 343.30(6)(b), Wis. Stats., participation in a supervised work program or any combination of these penalties.
- (d) If the Court orders a person to participate in a supervised work program under this Section, it shall be a program authorized by the Eastern Columbia County Municipal Court or the Columbia County Circuit Court. The program shall consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
- (e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, village attorney, law enforcement agency or the person whose operating privilege is revoked or

suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

- (f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 938.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 938.344(3), Wis. Stats.
- (g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.
- (h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

#### **SECTION 11.24 Defense of Sellers.**

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated Sections 11.21(a) or 11.22(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcoholic beverages may be considered. In addition, proof of all of the following facts by a seller of alcoholic 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 or she had attained the legal drinking age.
  - (2) That the sale was made in good faith and in reliance on the representation that the purchaser had attained the legal drinking age.
  - (3) That the underage person supported the representation under Subsection (a)(1) above with documentation that he had attained the legal drinking age.
- (b) **Book Kept by Licensees and Permittees.**
  - (1) Every retail alcoholic beverage licensee or permittee may keep a book for the purpose of Subsection (a) above. The licensee or permittee or his or her employee may require any of the following persons to sign the book:
    - a. A person who has shown documentary proof that he or she has attained the legal drinking age if the person's age is in question.
    - b. A person who alleges that he or she is the underage person's parent, guardian or spouse and that he or she has attained the legal drinking age, if the licensee or permittee or his or her employee suspects that he or she is not the underage person's parent, guardian or spouse or that he or she has not attained the legal drinking age.
  - (2) The book may show the date of the purchase of the alcoholic 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 purchase and the purchaser's signature.

**SECTION 11.25 Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards.**

- (a) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.085 or 343.50, Wis. Stats., who makes, alters or duplicates an official identification card may be fined as outlined in the Village Deposit Schedule.
- (b) 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 as outlined in the Village Deposit Schedule.
- (c) Any underage person who does any of the following is subject to the penalties specified under Section 11.23(c) or (d):
  - (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
  - (2) Makes, alters or duplicates an official identification card.
  - (3) Presents false information to an issuing officer in applying for an official identification card.

**SECTION 11.26 Possession of Alcohol Beverages on School Grounds Prohibited.**

- (a) In this Subsection:
  - (1) **Motor Vehicle** means a motor vehicle owned, rented or consigned to a school.
  - (2) **School** means a public, parochial or private school which provides an educational program for one (1) or more grades between kindergarten and grade twelve (12).
  - (3) **School Administrator** means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
  - (4) **School Premises** means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c), no person may possess or consume alcohol beverages on school premises;
- (c) Alcoholic beverages may be possessed or consumed on school premises, 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 outlined in the Village Deposit Schedule, except that Sec. 938.344, Wis. Stats., and Section

11.24(c) and (d) of this Code of Ordinances provide the penalties applicable to underage persons.

**SECTION 11.27 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 alcoholic beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 11.21(a).
- (c) A person who violates this Section is subject to a forfeiture as outlined in the Village Deposit Schedule.

**SECTION 11.28 Solicitation of Drinks Prohibited.**

Any licensee, permittee or bartender of a retail alcoholic beverage establishment covered by a license or permit issued by the Village of Arlington who permits an entertainer or an employee to solicit a drink of any alcoholic beverage defined in Section 125.02(1) of the Wisconsin Statutes, or any other drink from a customer on the premises, or any entertainer or employee who solicits such drinks from any customer is deemed violation of this Section.

**SECTION 11.29 Curfew.**

- (a) **Curfew Established.** It shall be unlawful for any person under age sixteen (16) to be on foot, bicycle or in any type of vehicle on any public street, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Village of Arlington between the hours of 10:00 p.m. and 6:00 a.m. the next day, unless accompanied by his or her parent or guardian, or person having lawful custody and control of his or her person, or unless there exists a reasonable necessity therefore. The fact that said child, unaccompanied by parent, guardian or other person having legal custody is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefore:
- (b) **Exceptions.**
  - (1) This Section shall not apply to a child:
    - a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
    - b. Who is on his own premises or in the areas immediately adjacent thereto.
    - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.

- d. Who is returning home from a supervised school, church or civic function, but not later than sixty (60) minutes after the ending of such function.
    - (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
  - (c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under age sixteen (16) to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under age sixteen (16) to violate this subsection.
  - (d) **Taking a Child Into Custody.**
    - (1) Every law enforcement officer while on duty is hereby authorized to take into custody any child violating the provisions of Subsection (a) above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home authorized under Sec. 48.227 of the Wisconsin Statutes. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.
    - (2) If the child is not released under this Subsection, the officer shall deliver the child to a Columbia County Juvenile Court Intake Worker in a manner determined by the court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child twelve (12) years of age or older a copy of the statement in addition to giving a copy to the Intake Worker. A juvenile violating these curfews regularly may be warned by an officer on duty in his discretion and sent home in lieu of taking the juvenile into custody.
    - (3) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under Sec. 48.20(4) Wis. Stats. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the officer shall take such action as is required under Sec. 48.20(5), Wis. Stats. If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical

harm on himself or herself or on another and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the officer shall take such action as is required under Sec. 48.20(6), Wis. Stats.

(e) **Warning and Penalty.**

(1) **Warning.** The first time a parent, guardian, or person having legal custody of a child who is taken into custody by a law enforcement officer as provided in Subsection (d) above, such parent, guardian, or person having such legal custody shall be advised as to the provisions of this Section and further advised that any violation of this Section occurring thereafter by this child or any other child under his or her care or custody shall result in a penalty being imposed as hereinafter provided.

(2) **Penalty.** Any parent, guardian, or person having legal custody of a child described in Subsection (a) above who has been warned in the manner provided in Subsection (d)(l) herein and who thereafter violates this Section shall be subject to a penalty as provided as outlined in the Village Deposit Schedule. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats. Any minor person under sixteen (16) years of age who shall violate this Section shall, upon conviction thereof, forfeit as outlined in the Village Deposit Schedule, together with the costs of prosecution.

**SECTION 11.30 Possession of Controlled Substances by Juveniles.**

It shall be unlawful for any person under the age of eighteen (18) to possess a controlled substance contrary to the Uniform Controlled Substances Act, Chapter 961, of the Wisconsin Statutes.

**SECTION 11.31 Petty Theft by Juveniles.**

It shall be unlawful for any person under the age of eighteen (18), with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

**SECTION 11.32 Receiving Stolen Goods.**

It shall be unlawful for a person under the age of eighteen (18) to intentionally receive or conceal property he knows to be stolen.

**SECTION 11.33 Village Jurisdiction Over Persons 12 through 17.**

(a) **Adoption of State Statute.** Section 938.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.

- (b) **Provisions of Ordinance Applicable to Persons 12 through 17 Years of Age.** Subject to the provisions and limitations of Section 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons twelve (12) through seventeen (17) years of age may be brought on behalf of the Village of Arlington and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with the same offense.
- (c) **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.
- (d) **Additional Prohibited Acts.** In addition to any other provision of the Village of Arlington Code of Ordinances, no person age twelve (12) through seventeen (17) shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **Penalty for Violations of Subsection (d).** Any person twelve (12) through seventeen (17) years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1.06 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

#### **SECTION 11.34 Regulations Concerning Marijuana, Cannabis, and Paraphernalia**

(1) **Marijuana and Cannabis.** No person shall casually possess marijuana or cannabis in a public place unless such marijuana or cannabis was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice.

(a) **Definitions.**

- 1) Cannabis. The resin extracted from any part of the plant Cannabis Sativa L., or any other non-fibrous extract from any part of the plant containing delta-9-tetrahydrocannabinol.
- 2) Casually Possess. The possession of not more than 28 grams of cannabis or 112 grams of marijuana.
- 3) Marijuana. All parts of the plant Cannabis Sativa L., whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. It does not include cannabis or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- 4) Practitioner. a. A physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, V-4-30 conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state. b. A pharmacy, hospital, or other institution licensed, registered, or otherwise



permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.

5. Public Place. A place which is in public ownership or a place to which the public has access; distinguished from a private place.

(2) **Possession of Drug Paraphernalia.** No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Ch. 161, Wis. Stats.

- (a) **Definitions.** § 161.571, Wis. Stats., is hereby adopted by reference and incorporated herein as though fully set forth herein.
- (b) This subsection applies only to a person who is less than seventeen (17) years of age is subject to a disposition under Wis. Stats. Section §938.344 (2e). (amend 6/10/96: 96-268)

(3) **Manufacture or Delivery of Drug Paraphernalia.** No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal inject ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Chapter 161 Wisconsin Statutes.

- (a) Any person who violates this section who is less than seventeen (17) years of age is subject to a disposition under Wis. Stats. Section 938.344(2e).

(4) **Delivery of Drug Paraphernalia to a Minor.** Any person eighteen (18) years of age or over who violates Section 4.04(6)(a) by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator is subject to a penalty pursuant to this chapter.

- (a) Any person who violates this section who is less than seventeen (17) years of age is subject to a disposition under Wis. Stats. Section 938.344(2e)

### **SECTION 11.35 Truancy.**

(a) **Contributing to Truancy.**

- (1) "Truancy" means any absence of part or all of one (1) or more days from school during which the school attendance officer, principal or teacher has not, been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of Sec. 118.15, Wis. Stats.
- (2) Any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy of a child

shall be subject to a forfeiture as outlined in the Village Deposit Schedule.

- (3) Subsection (2) does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.26(1)(h), Wis. Stats.
- (4) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.

**(b) Parent or Guardian Liability for Truancy.**

- (1) Unless the child is excepted or excused under Sec. 118.15, Wis. Stats., or has graduated from high school, any person having under control a child who is between the ages of six (6) and eighteen (18) years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age.
- (2) A person found to have violated Subsection (b)(1) above, after evidence is provided by a school official that the activities under Sec. 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Section 1.06. This Section does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.26(1)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection (b)(1) because of the disobedience of the child.

**SECTION 11.36 Unlawful Sheltering of Minors.**

- (a) No person shall intentionally shelter or conceal a minor child who:
  - (1) Is a “runaway child”, meaning a child who has run away from his or her parent, guardian or legal or physical custodian; or
  - (2) Is a child who may be taken into custody pursuant to Section 48.19, Wis. Stats.
- (b) Subsection (a) applies when the following conditions are present:
  - (1) The person knows or should have known that the child is a child described in either Subsection (a)(1) or (a)(2); and
  - (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection (a)(1) or (a)(2).
- (c) Subsection (a) does not apply to any of the following:
  - (1) A person operating a runaway home in compliance with Section 48.227, Wis. Stats.; or
  - (2) A person who shelters or conceals a child at the request or with the consent of the child’s parent, guardian or legal or physical custodian except if the sheltering or concealment violates Section 948.31, Wis. Stats.; or

- (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Chapter 48, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified with all information requested.

#### **SECTION 11.37 Purchase or Possession of Tobacco Products.**

- (a) **Definition of Tobacco Products.** For the purposes of this Section, “tobacco products” means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
- (b) **Purchase by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products.
- (c) **Possession By Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco products; provided that the possession by a person under the age of eighteen (18) years under the direct supervision of the parent or legal guardian of such person in the privacy of the parent’s or guardian’s home shall not be prohibited.
- (d) **Statutes Adopted.** The provisions of Sections 254.92, 134.66 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated herein.

#### **SECTION 11.38 Enforcement and Penalties.**

- (a) **Citation Process.** For violations of Sections 11.30 through 11.37, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11.30 through 11.37 by a person under the age of eighteen (18) shall be punishable according to Sections 938.17(2), 938.343, 938.344 and 48.345 of the Wisconsin Statutes. Nothing in this Section shall prevent the juvenile officer, in his or her discretion, from referring cases directly to the District Attorney’s Office.

#### **SECTION 11.39 Public Nuisance Defined.**

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

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) In any way render the public insecure in life or in the use of property;
- (c) Greatly offend the public morals or decency;

- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

#### **SECTION 11.40 Public Nuisances Prohibited.**

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

#### **SECTION 11.41 Public Nuisances Affecting Health.**

- (a) **Adulterated Food.** All decayed, harmfully altered or unwholesome food or drink sold or offered for sale to the public.
- (b) **Unburied Carcasses.** Bones and remains of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within twenty-four (24) hours after death.
- (c) **Breeding Places for Vermin, Etc.** Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.
- (d) **Stagnant Water.** All pools, puddles or collections of water in which mosquitoes, flies or other insects can multiply.
- (e) **Garbage Cans.** Refuse containers which are not fly-tight.
- (f) **Noxious Weeds.** All noxious weeds as described in Chapter 8 of this Code of Ordinances and other rank growth of vegetation.
- (g) **Noxious Odors, Etc.** Any use of property, substances or things within the Village of Arlington causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of persons within the Village of Arlington.
- (h) **Street Pollution.** Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village of Arlington.
- (i) **Animals at Large.** All animals running in public while not under control of its owner or other person.
- (j) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.
- (k) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

#### **SECTION 11.42 Public Nuisances Offending Morals and Decency.**

The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such

enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of Section 11.39:

- (a) **Disorderly Houses.** All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.
- (b) **Gambling Devices.** All gambling devices and slot machines, except as permitted by state law.
- (c) **Unlicensed Sale of Liquor and Beer.** All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for the ordinances of the Village of Arlington.
- (d) **Continuous Violation of Village Ordinances.** Any place or premises within the Village of Arlington where Village of Arlington ordinances or state laws relating to public health, safety, peace, morals are continuously, repeatedly and intentionally violated.
- (e) **Illegal Drinking.** Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the Village of Arlington.

#### **SECTION 11.43 Public Nuisances Affecting Peace and Safety.**

The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of Section 11.39:

- (a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.
- (b) **Illegal Buildings.** All buildings erected, repaired or altered in violation of the provisions of the ordinances of the Village of Arlington relating to materials and manner of construction of buildings and structures within the Village of Arlington.
- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than ten (10) feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.

- (f) **Dangerous Trees.** All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.
- (g) **Fireworks.** All use or display of fireworks except as provided by the laws of the State of Wisconsin and Ordinances of the Village of Arlington.
- (h) **Dilapidated Buildings.** All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- (i) **Wires Over Streets.** All wires over streets, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof.
- (j) **Noisy Animals or Fowl.** The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village of Arlington.
- (k) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village of Arlington or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or which do not conform to the permit.
- (l) **Open Excavations.** All open and unguarded pits, wells, excavations or unused basements accessible from any public street, alley or sidewalk
- (m) **Abandoned Refrigerators.** All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.
- (n) **Flammable Liquids.** Repeated or continuous violations of the ordinances of the Village of Arlington or laws of the State relating to the storage of flammable liquids.
- (o) **Unremoved Snow.** All snow and ice located on sidewalks not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided for in Chapter 6 of this Code of Ordinances.

#### **SECTION 11.44 Abatement of Public Nuisances.**

- (a) **Summary Abatement.**
  - (1) **Notice to Owner.** If the Village Clerk determines that a public nuisance exists within the Village of Arlington and that there is a danger to public health, safety, peace, morals or decency, notice may be served by the Village Clerk or an authorized deputy on the person causing, maintaining or permitting such nuisance or on the owner or occupant of the premises where such nuisance is caused, maintained or permitted; and a copy of such notice shall be posted on the premises. Such notice shall direct the person causing, maintaining or permitting such nuisance, or the owner or occupant of the premises, to abate or remove such nuisance within a period not less than twenty-four (24) hours or greater than seven (7) days and shall state that unless such nuisance is so abated, the Village of Arlington will cause the same to be abated and will charge the cost thereof

to the owner, occupant or person causing, maintaining or permitting the nuisance, as case may be.

- (2) **Abatement by Village of Arlington.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Village Clerk shall cause the abatement or removal of such public nuisance.
- (b) **Abatement by Court Action.** If the Village Clerk determines that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, the Village Clerk shall file a written report of such findings with the Village of Arlington resident who, upon direction of the Village of Arlington Board, shall cause an action to abate such nuisance to be commenced in the name of the Village of Arlington in Columbia County Circuit Court in accordance with the provisions of Chapter 823, Wis. Stats.
- (c) **Court Order.** Except where necessary under Subsection (a), no officer hereunder shall use force to obtain access to private property to abate a public nuisance, but shall request permission to enter upon private property if such premises are occupied and, if permission is denied, shall apply to any court having jurisdiction for an order abatement of the public nuisance.
- (d) **Other Methods Not Excluded.** Nothing in this Chapter shall be construed as prohibiting the abatement of public nuisances by the Village of Arlington or its officials in accordance with the laws of the State of Wisconsin.

#### **SECTION 11.45 Cost of Abatement.**

In addition to any other penalties imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village of Arlington shall be collected from the owner of the property upon which the nuisance is situated. This cost shall be assessed against the real estate as a special charge.

#### **SECTION 11.46 Enforcement; Penalty.**

- (a) **Enforcement.** The Fire Inspector, Director of Public Works and Building Inspector shall make recommendations to the Village Clerk regarding enforcement of the provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Section 11.44 to abate a public nuisance unless the officer has inspected or caused to be inspected the premises where the nuisance is alleged to exist and is satisfied that a nuisance does, in fact, exist.
- (b) **General Penalty.** Any person who shall violate any provision of this Chapter shall be subject to a as outlined in the Village Deposit Schedule.

#### **SECTION 11.47 Definitions.**

- (a) **Abandoned Vehicle.** Any vehicle left unattended for more than forty-eight (48) hours on any public street or grounds, or on private property where parking is prohibited, limited or restricted, without the permission of the owner or lessee. A vehicle shall not be abandoned if it is left unattended on private property out of public view by commission of the owner or lessee, or if the vehicle is in an enclosed building or appropriate storage place maintained in a lawful place and manner authorized by the Village.
- (b) **Owner.** The registered owner of a vehicle, or the lessee of a vehicle if the vehicle is registered or required to be registered by the lessee under Chapter 341 of the Wisconsin Statutes.
- (c) **Vehicle.** Any motor vehicle, trailer, semi-trailer or mobile home.

**SECTION 11.48 Purpose.**

The Village declares it to be a Public Nuisance for any person to leave unattended any vehicle on any public highway or private or public property for such time and under such circumstances as to cause the vehicle to be considered abandoned.

**SECTION 11.49 Disposition of Abandoned Vehicles.**

- (a) **Abandonment of Vehicles Prohibited.** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or alley or private or public property in the Village of Arlington for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or alley in the Village of Arlington or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than seventy-two (72) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.
- (b) **Presumptions.** For purposes of this Section, the following irrebuttable presumptions shall apply:
  - (1) A vehicle shall be presumed unattended if it is found in the same position seventy-two (72) hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said seventy-two (72) hours.
  - (2) Any vehicle left unattended for more than seventy-two (72) hours on any public street, alley or public ground or left unattended for more than seventy-two (72) hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance; provided, that the vehicle shall not be deemed abandoned under this Subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by a law enforcement officer or designated Village of Arlington authority.
- (c) **Exceptions.** This Section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premise licensed for storage of junk or junked vehicles and



fully in compliance with Village zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

#### **SECTION 11.50 Impoundment Procedure.**

Any abandoned vehicle shall be impounded pursuant to the provisions of this Section. Any police officer who discovers an abandoned vehicle shall cause the vehicle to be removed to a suitable place of impoundment by a towing service. Upon impoundment of the vehicle, the officer shall notify the Columbia County Sheriff Department of the abandonment and the location of the impounded vehicle. All vehicles impounded shall be disposed of pursuant to Sheriff policy procedure.

#### **SECTION 11.51 Costs of Impoundment.**

The owner of any abandoned vehicle, except a stolen vehicle, is responsible for all costs of towing, impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the municipality against the owner. Whether or not the municipality recovers the cost of towing and enforcement, the municipality shall be responsible to the towing service for requisite towing service and reasonable charges for impoundment.

#### **SECTION 11.52 Immediate Disposition of Certain Vehicles.**

The provisions of this Ordinance shall not apply if the Sheriff, or his designee, determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle. In this situation, the vehicle may be junked or sold by the Sheriff prior to the expiration of the impoundment period upon determination by the Sheriff that the vehicle is not stolen or otherwise wanted for evidence or other reasons.

#### **SECTION 11.53 Junked Vehicles and Appliances on Private Property.**

- (a) **Storage of Automobiles Restricted.** No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, vehicle parts or tires, or appliances shall be stored unenclosed upon private residential property or nonresidential property within the Village of Arlington for a period exceeding ten (10) days unless it is in connection with an authorized business enterprise located in a properly zoned area maintained in such a manner as to not constitute a public nuisance.
- (b) **Definitions.**
  - (1) The term “disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers” as used in this Section is defined as follows: motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation

- on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.
- (2) The term “unlicensed - motor vehicles, truck bodies, tractors or trailers” as used in this Section is defined as follows: motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.
  - (3) The term “motor vehicle” is defined in Sec. 340.01(35), Wis. Stats. For purposes of this Section, all terrain vehicles and snowmobiles are not considered “motor vehicles”.
  - (4) The term “inoperable appliance” is defined as any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.
- (c) **Exceptions.** This Section shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and in a non-nuisance manner in a properly zoned area when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and non-motorized campers, provided such vehicles are stored in compliance with the ordinances of the Village of Arlington. Also excepted are motor vehicles registered pursuant to Sections 341.265 and 341.266, Wis. Stats. In other situations, the Village Board may issue temporary permits permitting an extension of not to exceed an additional thirty (30) days time to comply with this Section where exceptional facts and circumstances warrant such extension.
- (d) **Enforcement.**
- (1) Whenever a law enforcement officer, the Building Inspector or other designated Village authority shall find any vehicles, vehicle parts or tires, or appliances, as described herein, placed or stored in the open upon private property within the Village of Arlington, he shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicles, part thereof or appliance is not removed within five (5) days, the Village Clerk shall cause to be issued a citation to the property owner or tenant of the property on which said vehicle or appliance is stored.
  - (2) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, a law enforcement officer, the Building Inspector or Village Clerk shall cause the vehicle or appliance to be removed and impounded, it shall thereafter be disposed of as prescribed in Sections 10.50 through 10.52 by a law enforcement officer, the Building Inspector or Village Clerk. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.
- (e) **Penalty.** Any person who shall interfere with the enforcement of any of the provisions of this Section and shall be found guilty thereof shall be subject to a

penalty as outlined in the Village Deposit Schedule. Each motor vehicle or appliance involved shall constitute a separate offense.

#### **SECTION 11.54 Resisting or Obstructing Officer**

- (a) **Resisting or Obstructing an Officer.** No person shall knowingly resist or obstruct an officer while such officer is doing any act in an official capacity and with lawful authority.
- (b) **Definitions:**
  - (1) "Obstruct" includes, without limitation, knowingly giving false information to the officer with intent to mislead them in the performance of their duty, including the service of any summons or civil process.
  - (2) "Officer" means a peace officer or other public officer or public employee having the authority by virtue of the office or employment to take another into custody.

**SECTION 11.55 Unlawful Use of Computerized Communication Systems.** No person shall, with the intent to frighten, intimidate, threaten, abuse, harass, annoy, or offend,

- (a) send a message to a person on an electronic mail or other computerized communication system, or send a message on an electronic mail or other computerized communication system, with the reasonable expectation that the person will receive the message and in that message,
  - (1) threaten to inflict injury or physical harm to any person or the property of any person;
  - (2) use any obscene, lewd, profane or offensive language or suggest any lewd or lascivious act;
  - (3) intentionally prevent or attempt to prevent the disclosure of his or her identity;
  - (4) send repeated messages to a person
- (b) knowingly permit or direct another person to send a message prohibited by this section by any computer terminal, or other device that is used to send messages, on an electronic mail or other computerized communication system that is under his or her control
- (c) **Definitions.**
  - 1) Message. Any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature, or transfer of a "computer program".
  - 2) Computer program. An ordered set of instructions or statements that, when executed by a computer, causes the computer to process data.