

**TITLE 11**

Offenses and Nuisances

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**CHAPTER 1**

State Statutes Adopted

- 11-1-1 Offenses Against State Laws Subject to Forfeiture
- 11-1-2 Penalties; Attempt; Parties to Acts

**SEC. 11-1-1 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.**

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

- 29.288 Throwing Refuse in Waters
- 48.17 Jurisdiction -- Civil Law and Ordinance Violations
- 48.343 Dispositions -- Civil Law and Ordinance Violations
- 48.344 Dispositions -- Intoxicating Liquor and Beer Violations
- 48.345 Disposition of Child Adjudged in Need of Protection
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- 50.58 Careless Smoking
- 118.07 Safety Requirements
- 118.08 School Zones; Crossings
- 118.09 Safety Zones
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- 134.65 Cigarette and Tobacco Products Retailer License
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- 167.10 Fireworks Regulated

- 175.25 Illegal Storage of Junked Vehicles
- 939.05(2)(b) Aiding and Abetting
- 939.22 Words and Phrases Defined
- 940.19(1) Battery
- 940.291 Failure of a Police Officer to Render Aid
- 941.01 Negligent Operation of a Vehicle
- 941.10 Negligent Handling of Burning Materials
- 941.12(2),(3) Interfering With or Failing to Assist in Firefighting
- 941.13 False Alarms and Interference with Firefighting
- 941.20(1) Reckless Use of Weapon
- 941.23 Carrying Concealed Weapon
- 941.235 Carrying a Firearm in a 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(1) Criminal 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 Criminal Trespass to a Medical Facility
- 943.15 Entry Into Locked Site
- 943.20(3)(a) Theft of Property
- 943.21(3)(a) Fraud on Innkeeper
- 943.22 Cheating Tokens
- 943.23(4),(5) 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 Credit Card Crimes
- 943.50(4)(a) Retail Theft
- 943.55 Removal of a Shopping Cart
- 944.15 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(2)	Escape
946.46	Encouraging Violation of Probation or Parole
946.69	Falsely Assuming to Act as Public Officer or Employee
946.70	Impersonating Peace Officer
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct
947.012	Unlawful Use of Telephone
947.013	Harassment
947.047	Littering Shores
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948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse with a Child Age 16 or Older
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948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.50	Strip Search by School Employee
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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 or Catnapping
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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
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951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter
951.15	Animals; Neglected or Abandoned; Police Powers
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## **SEC. 11-1-2 PENALTIES; ATTEMPT; PARTIES TO ACTS.**

- (a) **Penalty.** In addition to the general penalty provisions of this Code in Section 1-1-6 or any other penalty imposed for violation of any Section of this Title, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Section 11-3-1 may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin

Statutes. Nothing in this Code of Ordinances shall prevent law enforcement officers from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

(b) **Attempt.**

- (1) Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the Village of Howards Grove may be required to forfeit amounts not to exceed one-half (1/2) the maximum penalty for the completed act.
- (2) An attempt to commit an act prohibited by the ordinances in Title 11 requires that the actor have an intent to perform acts and attain 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 Prohibited in Title II.**

- (1) Whoever is concerned in the commission of an act prohibited by Title 11 of this Code of Ordinances, is a principle and may be charged with and convicted of the commission of said act although he did not directly commit it and although the person who directly committed it has not been convicted of some other act prohibited by these ordinances.
- (2) A person is concerned in the commission of an act prohibited by these ordinances if he:
  - a. Directly commits the 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 is also concerned in the commission of any other act which is committed in pursuance of the intended violation and which, under the circumstances, is the natural and probable consequence of the intended violation. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the act be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

CHAPTER 2

Offenses Against Public Safety and Peace

11-2-1	Regulation of Firearms, Explosives, and Other Missiles
11-2-2	Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited
11-2-3	Safe Use and Transportation of Firearms and Bows
11-2-4	Obstructing Streets and Sidewalks Prohibited
11-2-5	Loitering Prohibited
11-2-6	Loud and Unnecessary Noise Prohibited
11-2-7	Disorderly Conduct
11-2-8	Unauthorized Presence on School Property
11-2-9	Failure to Obey Lawful Order; Resisting An Officer
11-2-10	Possession of Controlled Substances; Marijuana
11-2-11	Crossing A Police Line
11-2-12	Harassment
11-2-13	Open Cisterns, Wells, Basements or other Dangerous Excavations Prohibited
11-2-14	Gambling, Lotteries, Fraudulent Devices and Practices Prohibited

**SEC. 11-2-1 REGULATION OF FIREARMS, EXPLOSIVES, AND OTHER MISSILES.**

- (a) **Discharge of Firearms Regulated.** No person, except a law enforcement officer in the performance of an official duty, shall fire or discharge any firearm, rifle, spring gun, air gun or pneumatic pellet gun or bow and arrow of any description in his possession or under his control within the Village of Howards Grove, unless it is unloaded and lawfully enclosed in a proper carrying case, provided that this Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or 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.
- (b) **Hunting Prohibited.** Hunting within the Village of Howards Grove is prohibited.
- (c) **Shooting Into Village Limits.** No person shall in the territory adjacent to the Village discharge any firearm in such manner that the discharge shall enter or fall within the Village of Howards Grove.
- (d) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Village Board where proper safety precautions are taken.
- (e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the Village without first obtaining a permit to do so from the Village Board.
- (f) **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 inhabited dwelling (other than one owned by such person) or building or any public park, square or enclosure.

- (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 Board.
  - c. Within the interior of a single family dwelling.
- (g) **Definitions.** For purposes of this Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical device, or gun powder.

**SEC. 11-2-2 CARRYING CONCEALED WEAPONS PROHIBITED; CERTAIN WEAPONS PROHIBITED.**

- (a) **Concealed Weapons Prohibited.**
- (1) **Prohibition.** No person shall, within the Village of Howards Grove, wear or in any manner carry under his clothes or conceal upon or about his person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.
  - (2) **Dangerous Weapon 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.
- (b) **Concealed Weapons in Public Establishments.** No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment, unless such dangerous weapon is so stored and concealed (other than on the person) so as not to be readily accessible to any person or patron. This Subsection shall not apply to peace officers or others duly authorized by law acting within the scope of their duties. This Subsection shall not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.
- (c) **Specific Concealed Weapons Prohibited.** No person, except a law enforcement officer acting within the scope of their duties, shall carry or wear concealed about his person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the Village.

(d) **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 “suriken”) 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 Howards Grove.

(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.

(3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

(e) **Reckless Use of Weapons.**

(1) 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 operate or go armed with 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.

(2) 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 take chances of perpetrating an injury.

**SEC. 11-2-3 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) Motorboat has the meaning given under Sec. 30.50(6), Wis. Stats.
  - (6) Roadway has the meaning given under Sec. 340.01(54), Wis. Stats.
  - (7) Unloaded means any of the following:
    - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
    - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
    - c. In the case of a flintlock muzzle-loading firearm, having the flashpan cleaned of powder.
  - (8) Vehicle has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.
- (b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**
- (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - (4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
  - (5) A person who violates Subsections (1) through (4) above is subject to a forfeiture pursuant to Section 1-1-6.
- (c) **Exceptions.**
- (1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
    - a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
    - b. A member of the U.S. armed forces.
    - c. A member of the National Guard.
  - (2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.614(3), 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)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

**SEC. 11-2-4 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.**

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

**SEC. 11-2-5 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. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

(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 or 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 building at such times that the same shall be closed for the usual and normal business conduct thereat.
- (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.** 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 alarm

which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this Subsection if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.

- (d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**
- (1) Underage Persons and Intoxicants. No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, guardian or spouse who has attained the legal drinking age.
  - (2) Permitting Loitering Prohibited. No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, guardian or spouse who has attained the legal drinking age.
- (e) **Definitions.** As used in this Section, the following terms shall have the following 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 Howards Grove.
- (f) **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 officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating 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 law enforcement officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

**SEC. 11-2-6 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 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) Steam whistles. The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper Village authorities.
  - (6) Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffle or other device which will effectively prevent loud or explosive noises therefrom.

- (7) Construction or repair of buildings. The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 6:30 a.m. and 10:00 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 10:00 p.m. to 6:30 a.m.
  - (8) Schools, courts, churches, hospitals. The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street. 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.
  - (9) Exceptions. The provisions of this Section shall not apply to:
    - a. Any vehicle of the Village 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 amplifying devices on the streets or in the parks of the Village of Howards Grove is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Village Board.
  - (2) Grounds or Reasons for Denial or Allowance. The Village Board shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.
  - (3) Time Restrictions. The Village Board shall not grant a permit to use an outdoor loudspeaker or amplifying device before the hours of 9:00 a.m. or after 1:00 a.m. No permit shall be granted to anyone who, in the opinion of the Village Board, uses said loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

(d) **Stationary Noise Limits.**

- (1) No person shall operate, or cause to be operated, on private property any source of sound in such a manner as to create a sound level which exceeds the following limits when measured at any point beyond twenty-five (25) feet from the boundary line of the property which constitutes the noise source:
- a. Seventy-five (75) dBA between the hours of 7:00 a.m. and 7:00 p.m.;
  - b. Seventy (70) dBA between the hours of 7:00 p.m. and 7:00 a.m., except as stated in Subsection (d)(1)a when the standard time is advanced.
- (2) Sound levels under this Subsection shall be measured with a Type 1 sound level meter manufactured according to standards prescribed by the American National Standards Institute in specification S1.4 (revised 1971). Measurements shall be made using an “A” weighted network of the sound level meter. Under this Subsection, noises capable of being accurately measured with such equipment shall be deemed to be those noises which cause fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two (2) ± decibels.

**SEC. 11-2-7 DISORDERLY CONDUCT.**

- (a) **Disorderly Conduct Prohibited.** No person within the Village of Howards Grove 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, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose his person.

**SEC. 11-2-8 UNAUTHORIZED PRESENCE ON SCHOOL PROPERTY.**

**(a) Unauthorized Presence.**

(1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him from attending any school located within the Village or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person," shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.

(2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.

**(3) "Authorized person" shall include:**

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

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

(1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.

(3) All entrances to the school buildings referred to in Subsection (a) shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."

(4) "Unauthorized presence" shall include any vehicle that is found on school property, which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a Village summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away, which, because of its location, creates a hazard to life or property.

- (c) **Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Howards Grove or upon any School District grounds or within two hundred (200) feet of any public school ground on any day when such schools are in session.
- (d) **Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.
- (e) **Definitions.** As used in this Section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.
  - (1) Loiter. To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.
  - (2) Nuisance. Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Howards Grove.

#### **SEC. 11-2-9 FAILURE TO OBEY LAWFUL ORDER; RESISTING AN OFFICER.**

- (a) **Lawful Orders.** It shall be unlawful for any person to fail to obey the direction or order of a law enforcement officer while such law enforcement officer is acting in an official capacity in carrying out his or her duties.
- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any law enforcement officer or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his duty, or to in any way interfere with or hinder or prevent him from discharging his duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his official capacity in carrying out his duties.

#### **SEC. 11-2-10 POSSESSION OF CONTROLLED SUBSTANCES; MARIJUANA**

- (a) **Possession of Controlled Substances.** It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I and II which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this Code of Ordinances.

(b) **Possession of Marijuana.**

- (1) No person shall possess twenty-five (25) grams or less of marijuana, as defined in Section 961.01(14), Wis. Stats., unless it 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, or except as otherwise authorized by Chapter 961, Wis. Stats.
- (2) For purposes of this Section, "practitioner" means:
  - (a) A physician, dentist, veterinarian, podiatrist, scientific investigator or other person 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 the State of Wisconsin.
  - (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 the State of Wisconsin.
- (3) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.

State Law Reference: Section 66.0107(1) (bm), Wis. Stats.

**SEC. 11-2-11 CROSSING A POLICE LINE.**

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.

**SEC. 11-2-12 HARASSMENT.**

**(a) Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:

- (1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.
- (2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

**(b) Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:

- (1) Makes any comment, request, suggestion or proposal, which is obscene, lewd, lascivious or indecent;
- (2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;

- (3) Makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers;

- (4) Makes repeated telephone calls, during which conversation ensures, solely to harass any person at the called number or numbers;
- (5) Knowingly permits any telephone under his control to be used for any purpose prohibited by this Section;
- (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

**SEC. 11-2-13 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.

**SEC. 11-2-14 GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.**

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village, except as provided by state law. Any police officer of the Village may seize anything devised solely for gambling or found in actual use for gambling within the Village and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling.

**SEC. 11-2-15 SEXUAL OFFENDER RESIDENCY RESTRICTIONS**

**a. Finding and intent**

- (1) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.
- (2) It is the intent of this Ordinance not to impose a criminal penalty but rather to serve the Village's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of the Village. To that purpose, the Village has established areas around locations where children regularly congregate in concentrated numbers wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence.

## **b. Definitions**

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

- (1) Child means a person less than the age of 16 for the purposes of this Ordinance.
- (2) Designated offender means any person who is required to register under Wis. Stat. § 301.45 for any sexual offense against a child or any person who is required to register under Wis. Stat. § 301.45 and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. §§ 301.46(2) and (2m).
- (3) Minor means a person less than the age of 18.
- (4) Permanent residence means a place where the person abides, lodges, or resides for 14 or more consecutive days.
- (5) Temporary residence means a place where the person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent address or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

## **c. Designated offender residence prohibition**

### (1) *Residence prohibition*

No designated offender shall be permitted to reside in the Village of Howards Grove, and no supervised release of such Wisconsin Statute Chapter 980 sexually violent person shall be established in the Village of Howards Grove, unless such person was domiciled in the Village of Howards Grove at the time of the offense resulting in the person's most recent conviction requiring registration under Wis. Stat. § 301.45 or being designated a Special Bulletin Notification (SBN) sex offender pursuant to Wis. Stat. §§ 301.46(2) and (2m).

### (2) *Prohibited location of residence*

It is unlawful for any designated offender to establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, park, recreational trail, playground, place of worship, or any other place designated by the Village where children are known to congregate.

### (3) *Measurement of distance*

- a. For the purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, licensed day care center, park, recreational trail, playground, place of worship, or any other place designated by the Village where children are known to congregate.
- b. The Village Clerk-Treasurer shall maintain an official map showing prohibited locations as defined by this ordinance. The Village Clerk-Treasurer shall with input and final approval from the Village Board, update the map at least annually

to reflect any changes in the location of prohibited zones. These shall be designated on the map as child safety zones.

(4) *Prohibited activity*

It is unlawful for any designated offender to participate in a holiday event involving children less than 18 years of age, such as distributing candy or other items to children. Holiday events in which the offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph. Participation is to be defined as actively taking part in the event.

**d. Penalties; exceptions**

(1) *Penalties*

A person who violates any provision of this Ordinance shall be punished by a forfeiture not exceeding \$500.00. Each day a person maintains a residence in violation of this Ordinance constitutes a separate violation. The Village of Howards Grove may also seek equitable relief.

(2) *Exceptions*

A designated offender residing within a prohibited area as described in Section c does not commit a violation of this ordinance if any of the following apply:

- a. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45 before the effective date of this ordinance.
- b. The person is a minor and is not required to register under Wis. Stat. § 301.45 or § 301.46.
- c. The school, licensed day care center, park, recreational trail, playground or place of worship was opened after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.
- d. The residence is also the primary residence of the person's parents, grandparents, siblings, spouse or children, provided that such parent, grandparent, sibling, spouse or child established the residence at least two years before the designated offender established residence at the location.

**e. Property owners prohibited from renting real property to designated offenders; penalties**

(1) *Rental*

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

(2) *Penalties*

A property owner's failure to comply with this Section shall constitute a violation of this Ordinance, and shall subject the property owner to the penalties set forth in Section d.



**f. Appeal**

The above 2,000-foot requirements may be waived upon approval of the Village Board through appeal by the affected party. Such appeal shall be made in writing to the Village Clerk-Treasurer, who shall forward the request to the Village Board, which shall receive reports from the constables, police and sheriff's department on such appeal. The Village Board shall convene and consider the public interest as well as the affected party's presentation and concerns. After deliberation, the Village Board provides its decision in writing via the minutes or otherwise to the constables, police and/or sheriff's department for their information and action. A written copy of the decision shall be provided to the affected party.

**g. Interpretation**

The provisions of this ordinance are considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute or other regulation, the provisions of this ordinance shall apply. Where the provisions of any statute or other regulation impose greater restrictions, the provisions of the statute or regulation shall prevail.

**h. Severability**

If any provision of this ordinance is declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety, or any part thereof, other than that so declared to be invalid. The balance of the ordinance not found invalid shall be enforced.

## CHAPTER 3

### Offenses Against Property

11-3-1	Destruction or Theft of Property Prohibited
11-3-2	Littering Prohibited
11-3-3	Abandoned Refrigerators Prohibited
11-3-4	Theft of Library Material
11-3-5	Cemetery Regulations
11-3-6	Damage to Public Property
11-3-7	Retail Theft
11-3-8	Issuance of Worthless Checks
11-3-9	Trespass to A Dwelling or Land
11-3-10	Regulation of Smoking
11-3-11	Theft
11-3-12	Fraud on Residential Landlords Prohibited

#### SEC. 11-3-1 DESTRUCTION OR THEFT 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 Howards Grove, the School District, or to any private person 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 without the consent of proper authority. Any signs, posters, advertisements, notices, or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this Section.
- (b) **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00).
- (c) **Theft of Property.** No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without that other person's consent and with intent to deprive the owner permanently of possession of such property.

#### SEC. 11-3-2 LITTERING PROHIBITED.

- (a) **Littering Prohibited.** No person shall throw any glass, refuse or waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the Village of Howards Grove, or upon property within the Village owned by the School District or any private person, or upon the surface of any body of water within the Village. It shall be unlawful to bring into the Village any tree branches, bush trimmings, refuse, waste, filth or other litter that was generate outside the corporate limits of the Village of Howards Grove.
- (b) **Litter From Conduct of Commercial Enterprise.**
  - (1) Scope. The provisions of this Subsection shall apply to all sales, promotions and other commercial ventures that result in litter being deposited on any street, alley or other public way.

- (2) Litter to be cleaned up. Any person, firm, corporation or association carrying on an enterprise that results in litter being deposited on any street, alley or other public way shall clean up the same within twelve (12) hours of the time the same is deposited. If any such litter is subject to being blown about, it shall be picked up immediately. If any such litter is likely to attract animals or vermin, such litter shall be picked up immediately.
  - (3) Litter picked up at litterer's expense. If any person, firm, corporation or association fails to pick up any litter as required by Subsection (b)(1) within the time specified, the Village shall arrange to have the same picked up by Village crews or by private enterprise. The entire expense of picking up such litter, together with an additional charge of twenty percent (20%) for administrative expenses, shall be charged to the person, firm, corporation or association that did the littering. If such sum is not promptly paid, steps shall be taken, with the advice of the Village Attorney's office, to collect the same. This charge shall be in addition to any forfeiture or other penalty for violation of this Section.
- (c) **Depositing of Materials Prohibited.** It shall be unlawful for any person to deposit, cause or permit to be deposited, placed or parked any vegetation, 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 Director of Public Works to the provisions of this Code of Ordinances, or upon any private property without the consent of the owner or lessee of the property. Any person who deposits, causes or permits to be deposited, placed or parked any such materials, equipment or objects upon any street, sidewalk or property shall be responsible to properly mark or barricade the area so as to prevent a safety hazard.
- (d) **Handbills.**
- (1) Scattering Prohibited. It shall be unlawful to deliver any handbills or advertising material to any premises in the Village 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.

### **SEC. 11-3-3 ABANDONED REFRIGERATORS PROHIBITED.**

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



**SEC. 11-3-4 THEFT OF LIBRARY MATERIAL**

- (a) **Definitions.** For the purposes of this Section, certain words and terms are defined as follows:
- (1) Archives. A place in which public or institutional records are systematically preserved.
  - (2) Library. Means any public library, library of an educational or historical organization or society or museum, and specifically the public libraries within the Village of Howards Grove and school libraries.
  - (3) Library Material. Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.
- (b) **Possession Without Consent Prohibited.** Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by the general penalty provisions of this Code. The failure to return library material after its proper return date, after written notice from the library and Village Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last-known address of the person with the overdue material; the notice date shall be the date of mailing.
- (c) **Concealment.** The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.
- (d) **Detention Based on Probable Cause.** An official or adult employee or agent of a library who has probable cause for believing that a person has violated this Section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. Compliance with this Section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
- (e) **Damaging Material Prohibited.** No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture or other article or property belonging to or in charge of the library. Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1-1-6.

- (f) **Return Demanded.** No person shall fail, on demand, to return any book periodical, pamphlet, picture or other articles or property belonging to or in charge of the Public Library according to the rules or regulations duly made and adopted by the Library Board and no person shall remove from the library any book, periodical, pamphlet,

picture or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this Subsection shall be subject to the penalties as set forth in Section 1-1-6.

State Law Reference: Section 943.61, Wis. Stats.

### **SEC. 11-3-5 CEMETERY REGULATIONS.**

- (a) **Purpose and Definition.** In order to protect cemetery areas within the Village from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this Section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the Village of Howards Grove.
- (b) **Authority to Establish Rules and Regulations.** The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code of Ordinances. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.
- (c) **Specific Regulations.**
- (1) Disturbing Cemetery Property. No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.
  - (2) Protection of Cemetery Property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb, any animals, birds or waterfowl, wild or domestic within any cemetery in any manner except as provided by this Code of Ordinances; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. No picnic, parties, or similar gatherings are permitted.

- (3) Motor Vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.
- (4) Speed Limit. No person shall operate any motorized vehicle in any cemetery in excess of fifteen (15) miles per hour unless otherwise posted.
- (5) Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.
- (6) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.
- (7) Pets. Pets, including animals of any species, and horses are prohibited in any cemetery.
- (8) Sound Devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.
- (9) Authorized Notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.
- (10) Loitering Prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.
- (11) Alcoholic Beverages Prohibited. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the Village unless the property is specifically named as being part of a licensed premises.
- (12) Play Vehicles Prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this Section, a play vehicle shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (13) Presence After Hours Prohibited. No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

#### **SEC. 11-3-6 DAMAGE TO PUBLIC PROPERTY.**

- (a) **Damaging Public Property**. No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove, or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge,

structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Village of Howards Grove.

- (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.
- (c) **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of Village 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.

### **SEC. 11-3-7 RETAIL THEFT.**

- (a) Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without 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 his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer who may conduct a lawful interrogation of the accused person. Compliance with this Subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.
  - (d) If the value of the merchandise does not exceed One Hundred Dollars (\$100.00), any person violating this Section shall forfeit not more than Two Hundred Dollars (\$200.00). If the value of the merchandise exceeds One Hundred Dollars (\$100.00), this Section shall not apply and the matter shall be referred to the District Attorney for criminal prosecution.

State Law Reference: Section 943.50, Wis. Stats.

### **SEC. 11-3-8 ISSUANCE OF WORTHLESS CHECKS.**

- (a) Whoever issues any check or other order for the payment of money less than One Thousand Dollars (\$1,000.00) which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this Section.

- (b) Any of the following is prima facie evidence that the person at the time he or she issued the check or other order for payment of money intended it should not be paid:
- (1) Proof that, at the time of issuance, the person did not have an account with the drawee; or
  - (2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order; or
  - (3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within five (5) days after receiving notice of non-payment or dishonor to pay the check or other order.
- (c) This Section does not apply to a post-dated check or to a check given in past consideration, except a payroll check.

#### **SEC. 11-3-9 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.

#### **SEC. 11-3-10 REGULATION OF SMOKING.**

- (a) **State Statute Adopted.** The provisions of Chapter 101.123, Wis. Stats., relating to the Regulation of Smoking and Clean Indoor Air, except provisions therein relating to penalties to be imposed, are hereby adopted by reference and made a part of this Section as is fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Section. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this Section.
- (b) **Smoking Prohibited Within or Upon All Buildings and Equipment Owned, Leased or Rented by the Village.** In recognition of a need to protect the health and comfort of the public and Village employees from the detrimental effects of smoking, pursuant to the authority granted to the Village by Sec. 101.123(2)(c), Wis. Stats., smoking as defined by Section 101.123(1)(h), Wis. Stats., is hereby prohibited by any person within or upon all buildings and enclosed equipment owned, leased or rented by the Village of Howards Grove.

#### **SEC. 11-3-11 THEFT.**

No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without his consent and with intent to deprive the owner

permanently of possession of such property, where the value of the property does not exceed Five Hundred Dollars (\$500.00).

**SEC. 11-3-12 FRAUD ON RESIDENTIAL LANDLORDS PROHIBITED.**

- (a) **Prohibited Acts.** Any person who, with intent to defraud, does any of the following shall be guilty of violating this Section:
- (1) Intentionally absconds without paying rent that has been contractually agreed upon in an oral or written lease with a landlord. Prima facie evidence of intentionally absconding will be established if a tenant fails to pay rent due prior to the vacating of the rental premise by the tenant, and the non-payment of said rent continues for a period of five (5) days after vacation of the premise; or
  - (2) Issues any check, money order or any other form of bank or monetary draft as a payment of rent, where such document lacks sufficient funds, where the account is closed, or where such draft is unredeemable in any other form or fashion. Prima facie evidence of intention to defraud will be established if a tenant fails, within five (5) days of a written demand by the landlord or agent, to pay in full the total amount of the draft presented as rent payment plus any bank charges to the landlord attributable to the unredeemability of the draft.
- (b) **Applicability.** This Section shall apply to rental agreements between residential landlords and tenants only. The words and terms used in this Section shall be defined and construed in conformity with the provisions of Chapter AG 134, Wis. Adm. Code, Chapter 704, Wis. Stats., and Section 990.001(1), Wis. Stats. The act of service by a landlord of a legal eviction notice or notice to terminate tenancy shall not, in itself, act as a bar to prosecution under this Section.
- (c) **Procedure.** An officer may issue a citation only when the complainant provides the following:
- (1) The name and current address of the tenant, a copy of the subject lease agreement, or sworn testimony of the terms of the subject oral lease.
  - (2) The amount of rent due, the date it was due, the date the tenant actually vacated the premise, and testimony that the rent remained unpaid for not less than five (5) days after vacating and that the tenant did not notify or attempt to notify the complainant of the tenant's new address, or that the tenant knowingly gave the complainant a false address.
  - (3) As to an unredeemable payment, the document used for attempting rent payment, the written demand for payment of the full amount plus bank charges, proof that the tenant received the written demand, and testimony that at least five (5) days have elapsed since the demand was received and no payment has been made.

State Law Reference: Chapter 704 and Section 990.001(1), Wis. Stats.; Chapter AG 134, Wis. Adm. Code.

**CHAPTER 4**

## Offenses Involving Alcoholic Beverages

11-4-1	Outside Consumption
11-4-2	Sale to Underage or Intoxicated Persons Restricted
11-4-3	Underage Persons' Presence in Places of Sale; Penalty
11-4-4	Underage Persons; Prohibitions; Penalties
11-4-5	Defense of Sellers
11-4-6	Persons Who Have Attained the Legal Drinking Age; False or Altered Identification Cards
11-4-7	Possession of Alcohol Beverages on School Grounds
11-4-8	Adult Permitting or Encouraging Underage Violation
11-4-9	Solicitation of Drinks Prohibited

**SEC. 11-4-1 OUTSIDE CONSUMPTION.****(a) Alcoholic Beverages in Public Areas.**

- (1) Regulations. It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the Village of Howards Grove or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in his possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the Village except as licensed premises.
- (2) Private Property Held Out For Public Use. It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the Village unless the property is specifically named as being part of a licensed premises.
- (3) Leaving Licensed Premises With Open Container.
  - a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
  - b. It shall be unlawful for any patron to leave a licensed premises with an open container containing any alcohol beverage.
- (4) Exceptions.
  - a. The provisions of this Section may be waived by the Village Board for duly authorized events.
  - b. Any organization which has been issued a 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 Title 7, Chapter 2, are fully complied with.

**(b) Definitions.**

- (1) As used in this Section, the term "alcoholic beverage" shall include all ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by

the alcoholic fermentation of an infusion in potable water of barley malt and hops, with  
or  
without unmalted grains or decorticated or degerminated grains or sugar, which contain

- one-half (1/2) of one percent (1%) or more of alcohol by volume and which are fit for use for beverage purposes.
- (2) As used in this Section, the term “public area” shall be construed to mean any location within the Village which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
- (3) As used in this Chapter “underage person” shall mean any person under the legal drinking age as defined by the Wisconsin Statutes.

Cross Reference: Section 7-2-16.

### **SEC. 11-4-2 SALE TO UNDERAGE OR INTOXICATED PERSONS RESTRICTED.**

(a) **Sales of Alcohol Beverages to Underage Persons.**

- (1) No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (2) No license or permittee may sell, vend, deal or traffic in fermented malt beverages to or with any underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age.
- (3) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult’s control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.

(b) **Penalties.** A person who commits a violation of Subsection (a) above is subject to a forfeiture of:

- (1) Not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within twelve (12) months of the violation; or
- (2) Not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00) if the person has committed a previous violation within twelve (12) months of the violation.
- (3) In addition to the forfeitures provided in Subsections (1) and (2) above, a court shall suspend any license issued under this Chapter to a person violating this Subsection for:
- 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;
  - 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
  - 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 Alcohol Beverages to Intoxicated Persons.**

- (1) No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
- (2) No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

- (d) **Penalties.** Any person who violates Subsection (c) above shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned for not more than sixty (60) days or both.

State Law Reference: Sec. 125.07, Wis. Stats.

### **SEC. 11-4-3 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 alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or his or her employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This paragraph does not apply to:
- (1) An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
  - (2) An underage person who enters or is on a Class "A" 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) Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
  - (5) Ski chalets, golf 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 alcohol 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 alcohol beverages are sold, furnished or possessed.
  - (8) An underage person who enters or remains in a room on "Class B" alcoholic beverage or Class "B" fermented malt beverage licensed premises separate from any room where

alcohol beverages are sold or served for the purpose of engaging in marching or  
drilling  
with a group of other persons if no alcohol beverages are furnished or consumed by  
any  
person in the room where the underage person is present and the presence of  
underage

persons is authorized under this Subsection. An underage person may enter and remain on "Class B" alcoholic beverage or Class "B" fermented malt beverage premises under this Subsection only if the municipality which issued the "Class B" alcoholic beverage or Class "B" fermented malt beverage license adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the law enforcement agency responsible for enforcing the ordinance issues to the "Class B" alcoholic beverage or Class "B" fermented malt beverage licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the law enforcement agency shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the community. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.

(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 who enters or remains on Class "B" or "Class B" licensed premises on a date specified by the licensee or permittee during times when no alcohol beverages are consumed, sold or given away. During those times, the licensee, the agent named in the license if the licensee is a corporation or a person who has an operator's license shall be on the premises unless all alcohol beverages are stored in a locked portion of the premises. The licensee shall notify the 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 alcohol beverages are sold, if there is a separate entrance to the dance hall and if no alcohol beverages are furnished or consumed by any person in the dance hall where the underage person is present.

(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).

#### **SEC. 11-4-4 UNDERAGE PERSONS; PROHIBITIONS; PENALTIES.**

- (a) Any underage person who does any of the following is guilty of a violation:
- (1) Procures or attempts to procure alcohol beverages 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 11-4-3(a).
- (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 beverage is guilty of a violation.

- (c) Any person violating Subsections (a) or (b) is subject to the following penalties:
- (1) For a first violation, a forfeiture of not more than Fifty Dollars (\$50.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  - (2) For a violation committed within twelve (12) months of a previous violation, either a forfeiture of not more than Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Sec. 125.07(4)cg, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  - (3) For a violation committed within twelve (12) months of two (2) or more previous violations, either a forfeiture of not less than Three Hundred Dollars (\$300.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program under Subsection (d) or any combination of these penalties.
  - (4) For a violation committed within twelve (12) months of three (3) or more previous violations, either a forfeiture of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in a supervised work program or any combination of these penalties.
- (d) (1) If the Court orders a person to participate in a supervised work program under Subsection (d), the Court shall set standards for the program within the budgetary limits established by the Village Board. The program may provide the person with reasonable compensation reflecting the market value of the work performed, or it may consist of uncompensated community service work and shall be administered by the County Department of Public Welfare or a community agency approved by the court.
- (2) The supervised work program shall be of a constructive nature designed to promote the person's rehabilitation, shall be appropriate to the person's age level and physical ability and shall be combined with counseling from an agency staff member or other qualified person. The program may not conflict with the person's regular attendance at school. The amount of work required shall be reasonably related to the seriousness of the person's offense.
- (e) When a court revokes or suspends a person's operating privilege under Subsection (c), the Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this paragraph may not disclose the information to any other person or agency.

- (f) A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 48.335, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 48.335(3), Wis. Stats.
- (g) Subsections (a) and (b) do not prohibit an underage person employed by a licensee or

permittee from possessing fermented malt beverages during the brewing process or for sale or delivery to customers.

- (h) Subsections (a) and (b) do not prohibit an underage person employed by a brewery, a winery or a facility for the rectifying or manufacture of intoxicating liquor or the production of fuel alcohol from possessing alcohol beverages during regular working hours and in the course of employment.

#### **SEC. 11-4-5 DEFENSE OF SELLERS.**

- (a) **Defenses.** In determining whether or not a licensee or permittee has violated Sections 11-4-2(a) or 11-4-3(a), all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages may be considered. In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
- (1) That the purchaser falsely represented that he or she had attained the legal drinking age.
  - (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
  - (3) That the sale was made in good faith and in reliance on the representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
  - (4) That the underage person supported the representation under Subsection (a)(1) above with documentation that he had attained the legal drinking age.
- (b) **Book Kept by Licensees and Permittees.**
- (1) Every retail alcohol 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 alcohol beverage, the identification used in making the purchase or the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchase and the purchaser's signature.

State Law Reference: Sec. 125.07(6) and (7), Wis. Stats.

**SEC. 11-4-6 PERSONS WHO HAVE ATTAINED THE LEGAL DRINKING AGE;  
FALSE OR ALTERED IDENTIFICATION CARDS.**

- (a) (1) Any person who has attained the legal drinking age, other than one authorized by Sec. 125.085 or 343.50, Wis. Stats., who makes, alters or duplicates an official identification card may be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned not less than ten (10) days nor more than thirty (30) days or both.
- (2) Any person who has attained the legal drinking age who, in applying for an identification card, presents false information to the issuing officer may be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) or imprisoned not more than ten (10) days or both.
- (b) Any underage person who does any of the following is subject to the penalties specified under Section 11-4-4(c) or (d):
- (1) Intentionally carries an official identification card not legally issued to him or her, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
- (2) Makes, alters or duplicates an official identification card.
- (3) Presents false information to an issuing officer in applying for an official identification card.

State Law Reference: Sec. 125.085(3), Wis. Stats.

**SEC. 11-4-7 POSSESSION OF ALCOHOL BEVERAGES ON SCHOOL GROUNDS  
PROHIBITED.**

- (a) In this Subsection:
- (1) "Motor vehicle" means a motor vehicle owned, rented or consigned to a school.
- (2) "School" means a public, parochial or private school which provides an educational program for one (1) or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
- (3) "School administrator" means the person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
- (4) "School premises" means premises owned, rented or under the control of a school.
- (b) Except as provided by Subsection (c) no person may possess or consume alcohol beverages:
- (1) On school premises;
- (2) In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
- (3) While participating in a school-sponsored activity.

- (c) Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the school administrator consistent with applicable laws and ordinances. A person who violates this Section is subject to a forfeiture of not more than Two Hundred Dollars (\$200.00), except that Sec. 48.37, Wis. Stats., and Section 11-4-4(c)

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

Cross Reference: Section 11-5-5.

**SEC. 11-4-8 ADULT PERMITTING OR ENCOURAGING UNDERAGE VIOLATION.**

- (a) No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the person or under the person's control. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.
- (b) No adult may intentionally encourage or contribute to a violation of Section 11-4-4(a) or (b).
- (c) Any person convicted of violating this Subsection shall be subject to the penalties as set forth in Section 1-1-6.

State Law Reference: Sec. 125.07(1)(a)3 and 4, Wis. Stats.

**SEC. 11-4-9 SOLICITATION OF DRINKS PROHIBITED.**

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

## CHAPTER 5

### Offenses by Juveniles

11-5-1	Curfew
11-5-2	Possession of Controlled Substances by Juveniles
11-5-3	Petty Theft by Juveniles
11-5-4	Receiving Stolen Goods
11-5-5	Village Jurisdiction Over Persons 14 through 17 Years of Age
11-5-6	Possession, Manufacture and Delivery of Drug Paraphernalia by a Minor
Prohibited	
11-5-7	Truancy
11-5-8	Unlawful Sheltering of Minors
11-5-9	Purchase or Possession of Tobacco Products
11-5-10	Enforcement and Penalties

#### SEC. 11-5-1 CURFEW.

- (a) **Curfew Established.** It shall be unlawful for any person age 16 or under to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Village of Howards Grove between the hours of 11:00 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 thirty (30) 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 age sixteen (16) or under 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 age sixteen (16) or under to violate this Section.

(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. 48.20 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 the Sheboygan 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)(1) herein and who thereafter violates this Section shall be subject to a penalty as provided in Section 1-1-6 of this Code of Ordinances. After a second violation within a six (6) month period, if the defendant, in a prosecution under this Section, proves

that he or she is unable to comply with this Section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats. Any minor person under sixteen

(16) years of age who shall violate this Section shall, upon conviction thereof, forfeit not less than One Dollar (\$1.00) nor more than Twenty-five Dollars (\$25.00), together with the costs of prosecution.

**SEC. 11-5-2 POSSESSION OF CONTROLLED SUBSTANCES BY JUVENILES.**

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

**SEC. 11-5-3 PETTY THEFT BY JUVENILES.**

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

**SEC. 11-5-4 RECEIVING STOLEN GOODS.**

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

**SEC. 11-5-5 VILLAGE JURISDICTION OVER PERSONS 14 THROUGH 17 YEARS OF AGE.**

- (a) **Adoption of State Statute.** Section 48.17(2), Wis. Stats., is hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) **Provisions of Ordinance Applicable to Persons 14 through 17 Years of Age.** Subject to the provisions and limitations of Section 48.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against persons 14 through 17 years of age may be brought on behalf of the Village of Howards Grove 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 Howards Grove Code of Ordinances, no person age 14 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Chapter 125, Wis. Stats.
- (e) **Penalty for Violations of Subsection (d).** Any person 14 through 17 years of age who shall violate the provisions of Subsection (d) shall be subject to the same penalties as are provided in Section 1-1-6 of these Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

Cross-Reference: Section 11-4-7.

**SEC. 11-5-6 POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA  
BY A MINOR PROHIBITED.**

- (a) **Definition.** In this Section, “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance, as defined in Ch. 961, Wis. Stats., in violation of this Section. It includes but is not limited to:
- (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
  - (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
  - (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
  - (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
  - (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
  - (9) Capsules, balloons, envelopes or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
  - (11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - (12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
    - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
    - b. Water pipes;

- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Miniature cocaine spoons and cocaine vials;

- g. Chamber pipes;
  - h. Carburetor pipes;
  - i. Electric pipes;
  - j. Air-driven pipes;
  - k. Chillums;
  - l. Bongs;
  - m. Ice pipes or chillers.
- (b) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation, of such other considerations a court may deem relevant:
- (1) Statements by an owner or by anyone in control of the object concerning its use.
  - (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  - (3) The proximity of the object in time and space to a direct violation of this Section.
  - (4) The proximity of the object to controlled substances.
  - (5) The existence of any residue of controlled substance on the object.
  - (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  - (7) Oral or written instructions provided with the object concerning its use.
  - (8) Descriptive materials accompanying the object which explain or depict its use.
  - (9) National and local advertising concerning its use.
  - (10) The manner in which the object is displayed for sale.
  - (11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  - (12) The existence and scope of legitimate uses for the object in the community.
  - (13) Expert testimony concerning its use.
- (c) **Prohibited Uses.**
- (1) Possession of Drug Paraphernalia. No person who is under eighteen (18) years of age may use, or possess with the sole intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Subsection.
  - (2) Manufacture or Delivery of Drug Paraphernalia. No person who is under eighteen (18) years of age may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely 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 this Subsection.
  - (3) Delivery of Drug Paraphernalia By a Minor to Minor. Any person who is under eighteen (18) years of age, who violates Subsection (3) 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 guilty of a special offense.

- (4) **Exemption.** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
- (d) **Penalties.** Any person who violates Subsection (c)(1), (2) or (3), shall, upon conviction, be subject to disposition under Section 48.345, Wis. Stats.

#### **SEC. 11-5-7 TRUANCY.**

(a) **Contributing to Truancy.**

- (1) Except as provided in Subsection (a)(2) below, any person eighteen (18) years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection (a)(4), of a child shall be subject to a forfeiture pursuant to Section 1-1-6.
- (2) Subsection (1) above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(h), Wis. Stats.
- (3) 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.
- (4) "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.

(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. 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 1-1-6.  
b. Subsection (b)(2)a above does not apply to a person who has under his or her control a child who has been sanctioned under Sec. 49.50(7)(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.

#### **SEC. 11-5-8 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 946.41 or 946.415, 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.

#### **SEC. 11-5-9 PURCHASE OR POSSESSION OF TOBACCO PRODUCTS.**

- (a) **Definition of Tobacco Products.** For the purposes of this Chapter, "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.

State Law Reference: Sec. 134.66, Wis. Stats.

#### **SEC. 11-5-10 ENFORCEMENT AND PENALTIES.**

- (a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-9, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.
- (b) **Penalties.** Violations of Sections 11-5-2 through 11-5-9 by a person under the age of eighteen (18) shall be punishable according to Sections 48.17(2), 48.343, 48.344 and 48.345 of the Wisconsin Statutes. Nothing in this Section shall prevent the juvenile officer, in his discretion, from referring cases directly to the District Attorney's office.

## CHAPTER 6

### Public Nuisances

11-6-1	Public Nuisances Prohibited
11-6-2	Public Nuisances Defined
11-6-3	Public Nuisances Affecting Health
11-6-4	Public Nuisances Offending Morals and Decency
11-6-5	Public Nuisances Affecting Peace and Safety
11-6-6	Abatement of Public Nuisances
11-6-7	Cost of Abatement
11-6-8	Enforcement; Penalty

#### **SEC. 11-6-1 PUBLIC NUISANCES PROHIBITED.**

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

#### **SEC. 11-6-2 PUBLIC NUISANCE DEFINED.**

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

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

#### **SEC. 11-6-3 PUBLIC NUISANCES AFFECTING HEALTH.**

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

- (a) **Adulterated Food.** All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- (b) **Unburied Carcasses.** Carcasses of animals, birds or fowl not intended for human consumption or foods which are 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 stagnant water in which mosquitoes, flies or other insects can multiply.
- (e) **Garbage Cans.** Garbage cans which are not fly-tight.
- (f) **Noxious Weeds.** All noxious weeds and other rank growth of vegetation.

- (g) **Water Pollution.** The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

- (h) **Noxious Odors, Etc.** Any use of property, substances or things within the Village or within four (4) miles thereof or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.
- (i) **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.
- (j) **Animals at Large.** All animals running at large.
- (k) **Accumulations of Refuse.** Accumulations of old cans, lumber, elm firewood and other refuse.
- (l) **Air Pollution.** The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the limits or within one (1) mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.
- (m) **Brush, Tree Limbs, Waste.** It shall be unlawful to bring into the Village any tree branches, bush trimmings, refuse, waste, filth or other litter that was generate outside the corporate limits of the Village of Howards Grove.

#### **SEC. 11-6-4 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY.**

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

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

#### **SEC. 11-6-5 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

- (a) **Signs, Billboards, Etc.** All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public 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 relating to materials and manner of construction of buildings and structures within the Village.
- (c) **Unauthorized Traffic Signs.** All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which, because of its color, location, brilliance or manner of operation, interferes with the effectiveness of any such device, sign or signal.
- (d) **Obstruction of Intersections.** All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
- (e) **Tree Limbs.** All limbs of trees which project over a public sidewalk less than 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.
- (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.
- (k) **Obstructions of Streets: Excavations.** All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the 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 or laws of the State relating to the storage of flammable liquids.
- (o) **Unremoved Snow.** All snow and ice not removed or sprinkled with ashes, sawdust, sand or other chemical removers, as provided in this Code.

## SEC. 11-6-6 ABATEMENT OF PUBLIC NUISANCES.

### (a) Summary Abatement.

- (1) Notice to Owner. If the inspecting officer determines that a public nuisance exists within the Village and that there is a danger of public health, safety, peace, morals or

- decency, notice may be served by the inspecting officer 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 five (5) days and shall state that unless such nuisance is so abated, the Village 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 the case may be.
- (2) **Abatement by Village.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.
- (b) **Abatement by Court Action.** If the inspecting officer 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 inspector or sanitarian shall file a written report of such findings with the Village President who, upon direction of the Village Board, shall cause an action to abate such nuisance to be commenced in the name of the Village in the Sheboygan 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 such permission is denied, shall apply to any court having jurisdiction for an order assisting the 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 or its officials in accordance with the laws of the State of Wisconsin.

#### **SEC. 11-6-7 COST OF ABATEMENT.**

In addition to any other penalty imposed by this Chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, such cost shall be assessed against the real estate as a special charge.

#### **SEC. 11-6-8 ENFORCEMENT; PENALTY.**

- (a) **Enforcement.** The Village Constable, Fire Chief, Building Inspector, or other designated Village official shall enforce those provisions of this Chapter that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under Section 11-6-6 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 penalty as provided in Section 1-1-6.

## CHAPTER 7

### Obscenity

- 11-7-1 Exposing Minors to Harmful Materials
- 11-7-2 Obscenity Prohibited

#### **SEC. 11-7-1 EXPOSING MINORS TO HARMFUL MATERIALS.**

**(a) Definitions.** As used in this Section:

- (1) "Minor" means any person under the age of eighteen (18) years.
- (2) "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion there of below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.
- (3) "Sexual conduct" is defined to be acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus and acts of excretory function, lewd exhibition of the genitals, especially in a stimulated condition and sexual relations between humans and animals.
- (4) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (5) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (6) "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.
- (7) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:
  - a. The character and content of any material described herein which is reasonably suspect under this Section; and
  - b. The age of the minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.
- (8) "Knowledge of the minor's age" means:
  - a. Knowledge or information that the person is a minor; or

- b. Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.

- (b) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless such minor is accompanied by his parent or legal guardian.
- (c) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to minor:
  - (1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors.
  - (2) Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in (c)(1) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- (d) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

State Law Reference: Sec. 944.25, Wis. Stats.

## **SEC. 11-7-2 OBSCENITY PROHIBITED.**

- (a) **Definitions.** In this Section, the following words shall have the following definitions:
  - (1) Obscene Material means a writing, picture, sound recording or film and Obscene Performance means a live exhibition before an audience which:
    - a. The average person, applying contemporary community standards, would find appeals to prurient interests if taken as a whole;
    - b. Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
    - c. Lacks serious literary, artistic, political or scientific value as measured by objective standards if taken as a whole.
  - (2) Sexual Conduct means the commission of simulation of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus or lewd exhibition of human genitals.
- (b) Whoever does any of the following with knowledge of the character and content of the material or performance is guilty of a violation of the Code of Ordinances:
  - (1) Imports, prints, advertises, sells, has in his or her possession for sale, or publishes, exhibits or transfers any obscene material.
  - (2) Advertises, produces or performs in any obscene performance.
  - (3) Has in his or her possession, with intent to transfer or exhibit to a person under the age of eighteen (18) years, any obscene material.

(4) Transfers or exhibits any obscene materials to a person under the age of eighteen (18) years.

- (5) Requires, as a condition to the purchase of periodicals, that a retailer accept obscene material.
- (c) **Review of Material.** In determining whether material is obscene under Subsections (a)(1)a and (a)(1)c, a judge or jury shall examine individual pictures or passages in the context of the work in which they appear.

## CHAPTER 8

### Property Maintenance

- 11-8-1 Property Maintenance
- 11-8-2 Applicability
- 11-8-3 Duties and Responsibilities of Owners or Operators
- 11-8-4 Litter Control
- 11-8-5 Enforcement
- 11-8-6 Penalty

#### SEC. 11-8-1 PROPERTY MAINTENANCE

- (1) **Title.** This chapter shall be known as "The Property Maintenance Ordinance," and may be referred to in this section as "this ordinance."
- (2) **Purpose.** The purpose of this code is to protect the public health, safety, morals and welfare by establishing minimum standards governing the maintenance, appearance and condition of residential and nonresidential premises; to fix certain responsibilities and duties upon owners and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises; and to provide for the repair, demolition or vacation of premises unfit for human habitation, occupancy or use.
- (3) **Definitions.** The following words and terms, wherever used herein or referred to in this code, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:
  - (a) **Deterioration.** The condition of a building or part thereof characterized by holes, breaks, rot, crumbling, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use. All exterior wood and composition surfaces shall be properly protected from the elements and against decay by paint, stain or other protective coating applied in a workmanlike manner.
  - (b) **Elements.** Any element, whether created by nature or by man, which, with reasonable foreseeability could carry litter from one place to another. Elements shall include, but not be limited to wind, air current, rain, water current and animals.
  - (c) **Exposed to Public View.** Any premises, or any part thereof, or any building, or any part thereof, which may be viewed by the public.
  - (d) **Exterior of the Premises.** Open space on the premises outside of any building thereon.
  - (e) **Extermination.** The control and elimination of insects, rodents and vermin.
  - (f) **Garbage.** Decayed and decomposed animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food. (See also Refuse and Rubbish)

- (g) Infestation. The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard.

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- (h) Litter. Includes any uncontainerized man-made or man-used waste which, if deposited within the Village otherwise than in a litter receptacle, tends to create a danger to public health, safety and welfare or to impair the environment of the citizens of the Village. Litter may include, but is not limited to, any garbage, trash, refuse, confetti, debris, grass clippings or other lawn or garden waste, newspaper, magazine, glass, metal, plastic or paper container or other construction material, motor vehicle parts, furniture, oil, carcasses of dead animals or nauseous or offensive matter of any kind or any object likely to injure any person, create a traffic hazard or create an unsightly or otherwise unpleasant environment.
- (i) Mixed Occupancy. Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to nondwelling uses or used as a hotel.
- (j) Nuisance. 1. Any public nuisance, as defined by statute or this code. 2. Physical conditions dangerous to human life or detrimental to health of persons on or near the premises where the conditions exist.
- (k) Operator. Any person who has charge, care or control of a dwelling or premises, or part thereof, whether with or without the knowledge and consent of the owner.
- (l) Owner. Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof. Any person who is a lessee subletting or assigning any part or all of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility with the lessor over the portion of the premises sublet or assigned by said lessee.
- (m) Park. A public or private park, reservation, playground, beach, recreation center or any public or private area devoted to active or passive recreation or any other area under the supervision of the Village.
- (n) Parking lot. Any private or public property with provisions for parking vehicles to which the public is invited or which the public is permitted to use or which is visible from any public place or private premises.
- (o) Premises. A lot, plot or parcel of land, including the buildings or structures thereon.
- (p) Private Premises. Any dwelling house, building or other structure designed to be used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox or other structure belonging or appurtenant to such dwelling house, building or other structure.
- (q) Public Place. All streets, boulevards, avenues, lanes, alleys or other public ways and parks, squares, plazas, grounds and buildings frequented by the general public, whether publicly or privately owned.

- (r) Refuse. All decayed and decomposed solid waste, except body wastes, including, but not limited to, garbage, rubbish, ashes, dead animals, abandoned automobiles and solid wastes. (See also Garbage and Rubbish)
- (s) Rubbish. Solid wastes consisting of both combustible and non combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials. (See also Garbage and Refuse)

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(4) **Applicability.** Every residential; nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for a dwelling, mobile home park, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code.

(5) **Duties and Responsibilities of Owners or Operators**

- (a) Maintenance of Exterior of Premises. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include, but are not limited to, the following:
1. Refuse, such as brush, weeds, broken glass, stumps, obnoxious growths, filth, garbage, trash and debris.
  2. Natural growth, such as dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.
  3. Overhangs, such as loose and other hanging objects which, by reason of location above ground level, constitute a danger of falling on the persons in the vicinity.
  4. Sources of infestation. Every owner of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation is caused by failure to maintain a dwelling in a rodent proof and insect proof condition, extermination shall be the responsibility of the owner.
  5. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor. All accessory structures, including detached garages, shall be maintained structurally sound and in good repair.

- (a) *Foundation, walls and roof.* Every foundation, exterior wall and roof shall be weather tight, watertight, rodent proof and insect proof, and shall be kept in a reasonably good state of maintenance and repair.
- (b) *Foundations.* The foundation elements shall adequately support the building at all points.
- (c) *Exterior walls.* Every exterior wall shall be free of holes, breaks, loose sidings or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface material must be covered by paint or approved protected covering applied in accordance with acceptable standards, and all siding material must be kept in repair.

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- (d) *Roofs.* The roof shall be structurally sound, tight and have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building. Existing gutters and downspouts shall be maintained in good repair, and direct water away from all foundations. All dwellings nearer than three feet to property line shall have gutters and downspouts installed on the entire affected side.
- (e) *Stairs, porches and railings.* Stairs and other exit facilities shall be adequate for safety as provided in this ordinance.
- (f) *Guardrails/handrails.* Every flight of stairs which is more than three risers high shall have rails which shall be located as required by this ordinance and every porch which is more than 24 inches above grade shall have guardrails so located and of such design as required by this ordinance. Every rail and balustrade shall be firmly fastened and shall be maintained in good condition.
- (g) *Doors and hatchways.* Every window, exterior door and basement hatchway shall be reasonably weather tight, rodent proof and provided with an approved locking device, and shall be kept in good working condition and in a good state of maintenance and repair.
- (h) *Windows to be glazed.* Every window sash shall be fully supplied with glass window panes or approved substitutes which are without open cracks and holes. Window panes and doors which require glazing shall not be boarded up except as a result of weather conditions or replacement and then only on a temporary basis, not to exceed three weeks.
- (i) *Windows to be openable.* Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.
- (j) *Screening.* Screens shall be supplied for protection against rodents and insects in accordance with the following requirements:
  - 1. *Guards for basement windows.* Every basement or cellar window which is openable shall be supplied with corrosion resistive rodent screening.
  - 2. *Insect screens.* From May 1 to October 15 of each year, at least one openable window in each habitable room shall be supplied with a screen covering at least 33 percent of the

window area. Such screens shall have a wire mesh of not less than number 16.

3. *Basement windows.* Every dwelling having two or more basement windows shall have at least two window screens which cover the entire window when, in the opinion of the housing inspector, such screening is necessary. Where there is only one basement window, it shall be similarly screened. Such screens shall have a wire mesh of not less than number 16.
6. *Grading and drainage of premises.* All premises shall be so graded and maintained that no stagnant water will accumulate or stand on the premises or within any building or structure located on the premises.

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- (b) *Storage of Commercial and Industrial Material.* There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under Title 13 of this Code for the premises.
- (c) *General Maintenance.* The exterior of every structure or accessory structure, except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint, loose boards or other conditions indicative of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blighting influences.

**(6) Litter Control.**

- (a) *Litter Collections and Storage Area.* Every owner, occupant or lessee of a building used for residential, business or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized.
- (b) *Duty to Collect Litter Before it is Carried From the Premises.* All litter that is subject to movement by the elements shall be secured by the owner, occupant or lessee of the premises where it is found so as to prevent its removal from the premises by the elements.
- (c) *Neglected Premises Visible to the Public.* It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonably clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.
- (d) *Areas Around Business Premises.* The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment

- buildings, housing projects, gas stations and hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of such premises so as to permit it to accumulate litter.
- (e) Loading and Unloading Docks. The person owning, operating or in control of loading or unloading docks shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.
  - (f) Construction Sites. The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each work day and placed in containers which will prevent litter from being carried from the premises by the elements.

Property Maintenance  
11-8-1 to 11-8-3

- (g) Maintaining Sidewalks and Alleys. Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper and waste.
- (h) Abandoned Garbage. It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal, to allow such refuse, waste or garbage to remain uncollected for longer than 7 days or, in any case, until such refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public place.
- (i) Animal Excreta
  1. Allowing discharge regulated. It is unlawful for any owner, keeper or walker of any dog or cat to permit his dog or cat discharge such animal's feces upon any public or  
  
private property within the Village other than the property of the owner of such dog or cat if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's feces from the public or private property.
  2. Carrying Feces Scoop Required. No person shall walk a dog or cat beyond the limit of his own property without carrying or having in his possession a scoop, bag or other items designed to pick up and remove dog or cat feces; and, further, it is unlawful for any person to dispose of the dog or cat feces on public or private property other than his own.
  3. Exception. This subsection shall not apply to blind persons having control of guide dogs.

(7) **Enforcement.** This section shall be enforced by the Building Inspector, Weed Commissioner or his designee.

(8) **Penalty.** Any person who violates, disobeys, neglects or refuses to comply with any of the provisions of this section shall be subject to forfeiture as provided in sec. 1-1-6 of this Code.

**11-8-2 Applicability.** Every residential; nonresidential or mixed occupancy building and the land on which it is situated, used or intended to be used for a dwelling, mobile home park, commercial, business or industrial occupancy shall comply with the provisions of this code, whether or not such building shall have been constructed, altered or repaired before or after the enactment of this code.

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### **11-8-3 Duties and Responsibilities of Owners or Operators**

- (1) Maintenance of Exterior of Premises. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of the occupant, pedestrians and other persons utilizing the premises, and free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free of hazards which include, but are not limited to, the following:
- a. Refuse, such as brush, weeds, broken glass, stumps, obnoxious growths, filth, garbage, trash and debris.
  - b. Natural growth, such as dead and dying trees and limbs or other natural growth which, by reason of rotting or deteriorating conditions or storm damage, constitute a hazard to persons in the vicinity. Trees shall be kept pruned and trimmed to prevent such conditions.
  - c. Overhangs, such as loose and other hanging objects which, by reason of location above ground level, constitute a danger of falling on the persons in the vicinity.
  - d. Sources of infestation. Every owner of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all exterior areas of premises, except that the occupant shall be responsible for such extermination in the exterior areas of the premises of a single-family dwelling. Whenever infestation is caused by failure to maintain a dwelling in a rodent proof and insect proof condition, extermination shall be the responsibility of the owner.

e. The exterior of the premises, the exterior of structures and the condition of accessory structures shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor. All accessory structures, including detached garages, shall be maintained structurally sound and in good repair.

- (1) *Foundation, walls and roof.* Every foundation, exterior wall and roof shall be weather tight, watertight, rodent proof and insect proof, and shall be kept in a reasonably good state of maintenance and repair.
- (2) *Foundations.* The foundation elements shall adequately support the building at all points.
- (3) *Exterior walls.* Every exterior wall shall be free of holes, breaks, loose sidings or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface material must be covered by paint or approved protected covering applied in accordance with acceptable standards, and all siding material must be kept in repair.
- (4) *Roofs.* The roof shall be structurally sound, tight and have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building. Existing gutters and downspouts shall be maintained in good repair, and direct water away from all foundations. All dwellings nearer than three feet to property line shall have gutters and downspouts installed on the entire affected side.

Property Maintenance  
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- (5) *Stairs, porches and railings.* Stairs and other exit facilities shall be adequate for safety as provided in this ordinance.
- (6) *Guardrails/handrails.* Every flight of stairs which is more than three risers high shall have rails which shall be located as required by this ordinance and every porch which is more than 24 inches above grade shall have guardrails so located and of such design as required by this ordinance. Every rail and balustrade shall be firmly fastened and shall be maintained in good condition.
- (7) *Doors and hatchways.* Every window, exterior door and basement hatchway shall be reasonably weather tight, rodent proof and provided with an approved locking device, and shall be kept in good working condition and in a good state of maintenance and repair.
- (8) *Windows to be glazed.* Every window sash shall be fully supplied with glass window panes or approved substitutes which are without open cracks and holes. Window panes and doors which require glazing shall not be boarded up except as a result of weather conditions or replacement and then only on a temporary basis, not to exceed three weeks.
- (9) *Windows to be openable.* Every window, other than a fixed window, shall be capable of being easily opened and shall be held in position by window hardware.

- (10) *Screening*. Screens shall be supplied for protection against rodents and insects in accordance with the following requirements:
- a. *Guards for basement windows*. Every basement or cellar window which is openable shall be supplied with corrosion resistive rodent screening.
  - b. *Insect screens*. From May 1 to October 15 of each year, at least one openable window in each habitable room shall be supplied with a screen covering at least 33 percent of the window area. Such screens shall have a wire mesh of not less than number 16.
  - c. *Basement windows*. Every dwelling having two or more basement windows shall have at least two window screens which cover the entire window when, in the opinion of the housing inspector, such screening is necessary. Where there is only one basement window, it shall be similarly screened. Such screens shall have a wire mesh of not less than number 16.
- f. *Grading and drainage of premises*. All premises shall be so graded and maintained that no stagnant water will accumulate or stand on the premises or within any building or structure located on the premises.

- (2) *Storage of Commercial and Industrial Material*. There shall not be stored or used at a location visible from the sidewalk, street or other public areas, equipment and materials relating to commercial or industrial use unless permitted under Title 13 of this Code for the premises.

Property Maintenance  
11-8-3 to 11-8-4

- (3) *General Maintenance*. The exterior of every structure or accessory structure, except accessory farm structures, including fences or enclosures, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbing stone or brick, excessive peeling paint, loose boards or other conditions indicative of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties protected from blighting influences.

#### **11-8-4 Litter Control**

- (1) *Litter Collections and Storage Area*. Every owner, occupant or lessee of a building used for residential, business or commercial purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter is properly containerized.
- (2) *Duty to Collect Litter Before it is Carried From the Premises*. All litter that is subject to movement by the elements shall be secured by the owner, occupant or lessee of

the premises where it is found so as to prevent its removal from the premises by the elements.

- (3) Neglected Premises Visible to the Public. It shall be the duty of any person owning or controlling any premises, including vacant lots visible from any public place or private premises, to maintain such premises in a reasonably clean and orderly manner. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of any premises so as to permit it to accumulate litter.
- (4) Areas Around Business Premises. The owner or person in control of any public place, including, but not limited to, restaurants, shopping centers, fast food outlets, stores, hotels, motels, industrial establishments, office buildings, apartment buildings, housing projects, gas stations and hospitals and clinics shall at all times keep the premises clean of all litter and shall take measures, including daily cleanup of the premises, to prevent litter from being carried by the elements to adjoining premises. It shall be a violation of this subsection to abandon, neglect or disregard the condition or appearance of such premises so as to permit it to accumulate litter.
- (5) Loading and Unloading Docks. The person owning, operating or in control of loading or unloading docks shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried from the premises by the elements.
- (6) Construction Sites. The property owners and the prime contractors in charge of any construction site shall maintain the construction site in such a manner that litter will be prevented from being carried from the premises by the elements. All litter from construction activities or any related activities shall be picked up at the end of each work day and placed in containers which will prevent litter from being carried from the premises by the elements.
- (7) Maintaining Sidewalks and Alleys. Persons owning, occupying or in control of any premises shall keep the sidewalks and alleys adjacent thereto free of litter. Owners or occupants shall sweep or rinse off the sidewalks abutting their premises as often as may be required to keep the walk reasonably free from dirt, paper and waste.

Property Maintenance  
11-8-4 to 11-8-6

- (8) Abandoned Garbage. It shall be unlawful for any person who is in control of any premises upon which is located or on whose behalf there is maintained any container of refuse, waste or garbage, which has been containerized in accordance with a contract for its removal, to allow such refuse, waste or garbage to remain uncollected for longer than 7 days or, in any case, until such refuse, waste or garbage creates any condition which is offensive to persons upon any private premises or public place.
- (9) Animal Excreta
  - a. Allowing discharge regulated. It is unlawful for any owner, keeper or walker of any dog or cat to permit his dog or cat discharge such animal's feces upon

any public or private property within the Village other than the property of the owner of such dog or cat if such owner, keeper or walker does not immediately thereafter remove and clean up such animal's feces from the public or private property.

- b. Carrying Feces Scoop Required. No person shall walk a dog or cat beyond the limit of his own property without carrying or having in his possession a scoop, bag or other items designed to pick up and remove dog or cat feces; and, further, it is unlawful for any person to dispose of the dog or cat feces on public or private property other than his own.
- c. Exception. This subsection shall not apply to blind persons having control of guide dogs.

**11-8-5 Enforcement.** This section shall be enforced by the Building Inspector, Weed Commissioner or his designee.

**11-8-6 Penalty.** Any person who violates, disobeys, neglects or refuses to comply with any of the provisions of this section shall be subject to forfeiture as provided in sec. 1-1-6 of this Code.