

Chapter 6

OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

[HISTORY: Adopted by the Town Board of the Town of Linn 11-13-1995 (Ch. 6 and § 8.09 of the 1995 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Nuisances — See Ch. 5.

Intoxicating liquor and fermented malt beverages — See § 10-1.

§ 6-1. Battery.

No person shall cause bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed.

§ 6-2. Firearms and bows. [Amended 10-14-2002]

- A. State laws adopted. Except as provided in Subsections B, C and D below, all provisions of Ch. 29 and §§ 941.20 and 948.605, Wis. Stats., and Ch. NR 10, Wis. Adm. Code, including any future revisions or amendments thereto, describing and defining regulations with respect to hunting, trapping and the discharge of firearms, including bow and arrow, including penalties to be imposed and procedures for prosecution, are hereby adopted and by reference made part of this section as if fully set forth herein.
- B. Discharge prohibited. The discharge of any firearm or bow is prohibited in all areas within the Town of Linn zoned residential, except those parcels exceeding five acres. The discharge of any rifle or handgun for hunting is strictly prohibited throughout the Town of Linn.
- C. Public property. The discharge of any firearm or bow is prohibited on any property owned by the Town of Linn.
- D. Discharge exceptions. The prohibitions contained in this section do not apply to the lawful execution by a law enforcement officer on an official duty or in the lawful protection of life or property.

§ 6-3. Dangerous weapons.

- A. Carrying dangerous, concealed weapons.
 - (1) Prohibited. No person shall, within the Town, in any manner carry or wear under his clothes or concealed about his person or vehicle, whether or not said vehicle is owned by said person, any firearms or deadly or dangerous weapons as hereinafter defined. This subsection shall not apply to any law enforcement officer or such person as may be legally authorized to carry such weapon. The

carrying concealed of any instrument necessary to certain trades, crafts, sports or professions during the usual course of such endeavor is specifically exempted from the terms of this subsection. [Amended 6-10-1996]

- (2) Definition. For the purposes of this section, "dangerous weapon" shall mean 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. The following are dangerous per se: blackjacks, billy club, standclub, sandbag, bludgeon, nunchaku sticks, throwing stars or other martial arts weaponry, slingshot, pistol, revolver, any instrument which impels a missile by compressed air, spring or other means, any weapon in which loaded or blank cartridges are used, cross knuckles, knuckles of any metal, bowie knife, dirk knife, dirk, dagger, switchblade knife or any knife which has a blade that may be drawn without the necessity of contact with the blade itself but is instead automatically opened by slight pressure on the handle or some other part of the knife and is commonly known as a "switchblade knife," straightedge razor or any other knife having a blade three inches or longer. Instruments not herein specifically enumerated are nonetheless dangerous weapons when they fall within the terms of this definition.

- B. Firearms. No person, except a law enforcement officer or person authorized by the law to do so, shall within the Town in any vehicle possess, carry, place with him or have under his control any firearm or airgun, unless such firearm or airgun is unloaded and enclosed within a carrying case.
- C. Sale of dangerous weapons to minors prohibited. No person shall engage in the business of buying or selling or sell to any minor any weapon listed or defined as dangerous in Subsection A of this section, except handguns which no person shall sell to any other person under the age of 21. Household purpose knives or knives having blades less than three inches shall be exempt from this section.

§ 6-4. Keeping place of prostitution.

No person shall keep a place of prostitution or grant the use or allow the continued use of property as a place of prostitution.

§ 6-5. Gambling.

The provisions of Ch. 945, Wis. Stats., are hereby adopted and made a part of this section in the same manner as if set forth verbatim herein, and anyone violating the provisions of such chapter shall, upon conviction, be subject to the penalties provided for the violation of the provisions of this Code.

§ 6-6. Disorderly conduct.

No person shall engage in disorderly conduct in the Town.

- A. Any of the following acts constitutes disorderly conduct:
- (1) Making, aiding or assisting in making any improper noise, riot, disturbance, breach of the peace or diversion tending to a breach of the peace.
 - (2) Engaging in or aiding or abetting any fight, quarrel or other disturbance.
 - (3) Disturbing any religious service, funeral, public or private meeting, place of amusement, or assembly of persons.
 - (4) Collecting in crowds for unlawful purposes, or for any purpose to the annoyance or disturbance of other persons.
 - (5) Assembling with two or more other persons for the purpose of using force or violence to disturb the public peace.
 - (6) Lodging in or being in outhouses, sheds, barns, stables or unoccupied buildings, or being a vagrant.
 - (7) Engaging in obscene or indecent activities or entertainment, or any lewd or lascivious behavior, or appearing in public in a state of nudity.
 - (8) Using any obscene, profane, threatening or inciting language in any public place.
 - (9) Urinating or defecating in any public place in the Town except in facilities designated for such purpose.
 - (10) Causing a motor vehicle to start from a stopped position in such a manner as to endanger life or property. Also, no driver or any of his or her passengers shall cause any unnecessary disturbance with or from any vehicle.
- B. Section 947.013, Wis. Stats., relating to harassment, including all future revisions, additions and amendments thereto, is hereby adopted by reference as though fully set forth herein.

§ 6-7. Noise.

No person shall disturb the peace and quiet of any other person by creating excessive noise on his or any property. Excessive noise shall include, but not by way of limitation, any of the following:

- A. Loud playing of phonographs, radios, television sets, music machines or musical instruments.
- B. Barking or howling dogs or cats.
- C. Vehicles without mufflers, or the unnecessary use of horns on vehicles.

§ 6-8. Loitering.

- A. Loitering or prowling. No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant

alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances make it impracticable, a police or peace officer shall, prior to any arrests 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 or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.

- B. Obstruction of highway by loitering. No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.
- C. Obstruction of traffic by loitering. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the Town in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.

§ 6-9. Littering.

No person shall litter any public or private property or body of water with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

§ 6-10. Alcohol beverages.

- A. No person shall carry any open can, bottle or other container of alcohol beverages or drink from the same on any public walk, street, or Town parking lot or in any park or other public place in the Town.
- B. Except as otherwise specifically provided in this section, all provisions of Ch. 125, Wis. Stats., including any future revisions or amendments thereto, describing and defining regulations with respect to alcoholic beverages, including penalties to be imposed and procedure for prosecution, are hereby adopted and by reference made part of this section as if fully set forth herein. Any act required to be performed or prohibited by an statute incorporated herein by reference is required or prohibited by this section.¹

§ 6-11. Drugs and drug paraphernalia.

- A. Possession of a controlled substance. No person shall knowingly possess, keep or

¹. Editor's Note: See also Ch. 10, § 10-1, Intoxicating liquor and fermented malt beverages.

maintain any narcotic drug, 25 grams or less of marijuana, or a stimulant, depressant or hallucinogenic drug or any substance defined as a controlled substance in the Uniform Controlled Substance Act of the Wisconsin Statutes 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 Ch. 961, Wis. Stats.²

- B. Drug paraphernalia. All provisions of Ch. 961, Wis. Stats., including any future revisions or amendments thereto, describing and defining regulations with respect to drug paraphernalia are hereby adopted and by reference made part of this section as if fully set forth therein. [Added 3-10-1997]

§ 6-12. Tobacco products.

The possession, smoking and/or use of tobacco products is prohibited in all educational facilities, as that term is defined in § 101.123(1)(a), Wis. Stats., as well as all grounds on which any educational facility is located. As used herein, the term "smoking" shall mean possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment. As used herein, the term "possession of tobacco products" shall mean that a person has dominion or control over any tobacco product.

§ 6-13. Outdoor fires.

- A. Burning of certain materials prohibited. It shall be unlawful for any person to burn in an outdoor residential incinerator any garbage, trash, rubber or rubber products, asphaltic-type materials or any other such related materials which create by such burning a smoke or odor nuisance. "Garbage" as the term is used herein is defined as putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food. "Trash" as used herein is defined as human or animal excrement, animal remains or offal, petroleum products, vegetable products, mineral products and metal pressurized containers.
- B. Use of incinerator required. No outside burning shall be permitted on any premises used for residential purposes except in an incinerator which shall be a metal container or masonry product built or fabricated so as to be completely enclosed, except having a top opening for loading and a lower opening for draft control. Such openings shall be covered with a metal screen of mesh opening not greater than 1/2 inch measured across the largest diameter. Such residential incinerator shall be located at a distance of at least 20 feet from any structure and shall have all grass and other flammable material cleared away from its base for a distance of three feet from all exterior surfaces of the incinerator.³
- C. Emergency regulations. Whenever, because of extreme dryness or drought, the Town Board shall deem it imprudent to set fires upon any land within the Town, it shall, by proclamation, declare an emergency and cause to be published in a

2. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

3. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

newspaper of general circulation in the Town a notice forbidding the setting of fires within the Town, and after the publishing of such notice, no person shall set any fire upon lands in such area except for warming the person, cooking food, or in an approved type incinerator as provided in Subsection B of this section, until the expiration of such emergency.

- D. Responsibility for fires. Any person who negligently sets a fire on any land or shall fail to properly attend the same so as to allow the fire to escape to adjoining land or shall set a fire in violation of any provision of this section or shall set a fire without the use of an incinerator as is provided in this section shall upon conviction be subject to the forfeiture provided for violation of this Code and in addition thereto shall be liable for all expenses incurred in the suppression of any such fire which the Town Clerk/Treasurer shall certify to such person by itemized statement. If any claim is not paid within 60 days from the date of billing by the Town Clerk/Treasurer, the Town of Linn may maintain an action against the person for the collection of such claim in addition to the forfeiture provided.
- E. Person defined. The term "person" as used in this section shall include the owner and any person in possession of any real estate upon which a fire is set.
- F. Grass fires. See § 10-6 of this Code for the requirements for a permit for grass fires.
- G. Failure to be present. It shall be a prohibited practice for any person who sets a fire to fail to be present at the premises for any length of time deemed to be unreasonable or unsafe. [Added 7-14-1997]
- H. Fires at Town of Linn boat launch facilities. No person shall construct or otherwise cause a fire for any purpose, including but not limited to fires for cooking, at either the Robinson Hillside or Linn Pier boat launch facilities. For purposes of this subsection, "boat launch facilities" shall include the boat launch itself, the beach area and the parking area at both boat launch facilities. [Added 7-18-2002]

§ 6-14. Fireworks. [Amended 4-9-2001; 10-11-2004; 5-14-2007]

- A. No person shall sell, offer or expose for sale within the Town any fireworks as described in § 167.10, Wis. Stats.
- B. No person shall possess, store, use, discharge or cause to be discharged, ignited or otherwise set into action within the Town any fireworks as described in § 167.10, Wis. Stats., except as provided in this section.
- C. Permits for the public display of fireworks to be displayed by properly qualified individuals, organizations approved by the Town or Town officials, under the direct supervision of experts in the handling of fireworks, may be issued by the Fire and EMS Chief of the Town of Linn as provided in § 167.10(3), Wis. Stats., upon furnishing such information as may be required by the Fire and EMS Chief as to the qualifications of the applicant.
- D. The fireworks display authorized by the permit shall be in accordance with and conducted according to the standards set forth in the National Fire Protection

Association (NFPA) Regulations, NFPA 1123, Code for Fireworks Display, and NFPA 1126, Standard for the Use of Pyrotechnics Before a Proximate Audience, and its amendment.

- E. In granting the permit, the Fire and EMS Chief may require that adequate Fire and EMS equipment and personnel shall be present at the property for which the fireworks display is to occur, and the Fire and EMS Chief and/or appropriate Fire and EMS Department personnel shall have the right to inspect the property prior to and during the fireworks display to ensure the safety and well-being of those present during the fireworks display and the neighboring property owners. The Fire and EMS Chief and/or any appropriate Fire and EMS Department personnel shall have the right, due to weather-related conditions or other emergencies, to require that the fireworks display be postponed or canceled in its entirety.
- F. As a prerequisite to obtaining a permit, the applicant must provide written consent from all property owners within 800 feet of the fireworks display site as defined in NFPA 1123, Code for Fireworks Display, and its amendment.
- G. The applicant shall be responsible for the payment of a permit fee together with the costs of any services provided by the Town of Linn on the date and time of the display.
- H. The provisions of this section shall not apply to articles of the kind and nature herein mentioned which shall be in the possession of railroads or transportation companies for the purpose of transportation unless the same shall be held voluntarily by such railroads or companies as warehousemen. The provisions of this section shall not apply to signaling devices used by the railroad companies or to explosives used for blasting or similar purposes.⁴

§ 6-15. Storage and use of flammable liquids.

- A. State Flammable Liquids Code adopted. The State Flammable Liquids Code, Ch. Comm 10, Wis. Adm. Code, is adopted by reference and made a part of this section.
- B. Compliance required. No person shall store or use flammable liquids within the Town except in accordance with the State Flammable Liquids Code and this section.
- C. Board approval required. Any person handling or storing flammable liquids of any flash point shall submit to the Town Board full information and plans on his proposed installations and methods of storing and handling such liquids, and no such installation shall be made without the approval of the Town Board.

§ 6-16. Discharge and cleanup of hazardous materials.

- A. Prohibited discharges. No person, firm or corporation shall discharge or cause to be discharged, leaked, leached or spilled upon any public street, alley, or public

⁴. Editor's Note: Original § 6.11, Trapping, which immediately followed this section, was deleted 10-14-2002. See now § 6-2, Firearms and bows.

property, or onto the ground, surface waters, subsurface waters, or aquifers, or on any private property within the Town, except those areas specifically licensed for waste disposal or landfill activities and to receive such materials, any explosive, flammable or combustible solid, liquid or gas, any radioactive material at or above nuclear regulatory restriction levels, etiologic agents, or any solid, liquid or gas creating a hazard, potential hazard, or public nuisance or any solid, liquid or gas having a deleterious effect on the environment.

- B. Containment, cleanup and restoration. Any person, firm or corporation in violation of the above subsection shall, upon direction of any emergency management officer, begin immediate actions to contain, clean up and remove to any approved repository the offending material(s) and restore the site to its original condition, with the offending person, firm or corporation being responsible for all expenses incurred. Should any person, firm or corporation fail to engage the necessary personnel and equipment to comply or to complete the requirements of this section, the Office of Emergency Management may order the required actions to be taken by public or private resources and allow the recovery of any and all costs incurred by the Town from any violating party or parties.⁵
- C. Site access. Access to any site, public or private, where a prohibited discharge is indicated or suspected will be provided to emergency management officers and staff and to the Town Police and Fire Department personnel for the purpose of evaluating the threat to the public and monitoring containment, cleanup and restoration activities.⁶
- D. Public protection. Should any prohibited discharge occur that threatens the life, safety or health of the public at, near, or around the site of a prohibited discharge, and the situation is so critical that immediate steps must be taken to protect life and limb, the Emergency Management Director, his assistants, or the senior Town police or fire official on the scene of the emergency may order an evacuation of the area or take other appropriate protective steps for a period of time until the Town Board can take appropriate action.⁷
- E. Enforcement. The Emergency Management Director and his deputies, as well as the Town police officers, shall have authority to issue citations or complaints under this section.⁸
- F. Civil liability. Any person, firm or corporation in violation of this section shall be liable to the Town of Linn for any expenses incurred by the Town or loss or damage sustained by the Town by reason of such violations.
- G. Penalties. Any person, firm or corporation in violation of this section shall forfeit to the Town upon conviction thereof not to exceed \$200 plus the costs of prosecution

5. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

6. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

7. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

8. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

and in default of payment thereof shall be imprisoned in the county jail for 10 days. Each day of violation shall constitute a separate offense.

§ 6-17. Resisting or obstructing officer.

- A. No person shall knowingly resist or obstruct an officer while such officer is doing any act in his official capacity and with lawful authority.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

OBSTRUCT — Includes without limitation knowingly giving false information to the officer with intent to mislead him in the performance of his duty, including the service of any summons or civil process, and also the knowingly giving of a false identification to the officer to mislead him in the performance of his duty.

OFFICER — A peace officer or other public officer or public employee having the authority by virtue of his office or employment to take another into custody.

- C. Whoever by violating this section hinders, delays or prevents an officer from properly serving or executing any summons or civil process is civilly liable to the person injured for any actual loss caused thereby and to the officer or his superior for any damages adjudged against either of them by reason thereof.

§ 6-18. False alarms.

No person shall intentionally give a false alarm to any public officer or employee, whether by means of a fire alarm system or otherwise.

- A. False alarms. The following are incidences of offenses for false alarms but do not include false alarms caused by weather conditions or prior arrangements for testing of an alarm system:
 - (1) The activation of an alarm system through the negligence of the owner or lessor of an alarm system or of his employer's agents.
 - (2) The activation of an alarm system through mechanical failure or malfunction because of improper maintenance by the alarm user.
 - (3) The activation of an alarm system because of improper installation and/or use of the equipment by the alarm business.
- B. Penalties and enforcement.
 - (1) Penalties.
 - (a) For the first false alarm in a calendar year, resulting in the dispatching of police, fire or Rescue Squad personnel, the licensee, or his agent, shall be given a written warning.
 - (b) For the second false alarm in the same calendar year, the licensee shall

be subject to a forfeiture not to exceed \$50 plus costs.⁹

(c) For the third false alarm in the same calendar year, the licensee shall be subject to a forfeiture not to exceed \$75 plus costs.¹⁰

(d) For each false alarm violation thereafter during the same calendar year, the licensee shall be subject to a forfeiture not to exceed \$100 plus costs.¹¹

(2) Enforcement. Actions for violations shall be commenced by citation as provided by § 66.0114(1)(a), Wis. Stats.

§ 6-19. Escape.

A. Any person in custody under any of the following circumstances who intentionally escapes from custody shall be subject to a forfeiture as provided for in this Code:

(1) Pursuant to a legal arrest for a misdemeanor or violation of a Town ordinance.

(2) Lawfully charged with or convicted of a misdemeanor or the violation of a Town ordinance.

(3) Pursuant to a civil arrest or body execution.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

CUSTODY — Includes, without limitation, actual custody of an institution or of a peace officer or institution guard and constructive custody of prisoners temporarily outside the institution, whether for the purpose of work or medical care or otherwise.

ESCAPE — To leave in any manner without lawful permission or authority.

LEGAL ARREST — Includes, without limitation, an arrest pursuant to process fair on its face notwithstanding insubstantial irregularities.

§ 6-20. Impersonating peace officer.

No person shall impersonate a peace officer with intent to mislead others into believing that the person is actually a peace officer.

§ 6-21. Tampering with public records and notices.

No person shall intentionally damage, alter, remove or conceal any public notice, posted as authorized by law, before the expiration of the time for which the notice was posted.

§ 6-22. Unlawful use of telephone.

9. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

10. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

11. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

No person shall:

- A. With intent to frighten, intimidate, threaten, abuse or harass, make a telephone call and threaten to inflict injury or physical harm to any person or the property of any person.
- B. With intent to frighten, intimidate, threaten, abuse, harass or offend, telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act.
- C. Make or cause the telephone of another repeatedly to ring, with intent to harass any person at the called number.
- D. Make repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.
- E. Make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to abuse, threaten or harass any person at the called number.
- F. Knowingly permit any telephone under his control to be used for any purpose prohibited by this section.

§ 6-23. Animals. ¹²

- A. Crimes against animals. Chapter 951, Wis. Stats., including all future revisions, additions and amendments thereto, is hereby adopted by reference as though fully set forth herein.
- B. Animals and poultry not to run at large. No person having in his possession or under his control any animal or fowl shall allow the same to run at large on public roads or in public places within the Town.
- C. Inoculation for dogs and cats. All persons residing in the Town of Linn and owning or having in their possession any dog or cat shall be required to have such dog or cat inoculated for rabies, distemper and other dangerous diseases. [Added 3-10-1997]

§ 6-24. Use of lake shore path restricted.

No person shall operate a bicycle or motorized vehicle or ride, lead, or drive a horse or pony on the path around the lake shore of Geneva Lake.

§ 6-25. Violation of Town park rules. [Added 3-12-2007]

- A. No person shall violate any of the Town of Linn Park Rules duly adopted by the Town Board of the Town of Linn and posted at the Town of Linn Park.
- B. The penalty for the violation of any Town of Linn Park Rule shall be as provided in

12. Editor's Note: See also Ch. 7, Dogs.

§ 6-39 of this chapter.¹³

§ 6-26. Damage to property.

- A. Public. No person shall interfere with the operation of or function for which intended, damage, harm, soil or mar any building, grounds, fixtures, vehicle or property owned, possessed or controlled by the Town or other governmental unit or subdivision. Grounds include, without limitation, real property, trees, monuments, shrubs, bushes, sod or other vegetation, whether located on public or private property.
- B. Private. No person shall damage, harm, deface, soil or mar any building, grounds, vehicle or other property of another without his consent.

§ 6-27. Removal of barriers.

No unauthorized person shall remove, take down, alter the position of, damage, destroy, pass over or beyond any barrier erected within the Town by order or approval of the Police Department or Town Board.

§ 6-28. Trespass to land and dwellings.

No person shall enter the dwelling of another or enter or remain on any land of another without the consent of the owner or person lawfully upon the premises.

§ 6-29. Obstructed driveways or access roads.

All privately owned driveways or access roads providing access to a residence or other building or structure shall be cleared of vegetation or other fixed objects to a width of at least 15 feet and a height of at least 13 1/2 feet in order to permit access to police, fire and other safety vehicles and apparatus without damage to said vehicles, apparatus or equipment attached thereto.

§ 6-30. Entry into locked vehicle.

No person shall intentionally enter the locked and enclosed portion or compartment of the vehicle of another without consent and with intent to steal therefrom.

§ 6-31. Theft.

No person shall:

- A. Intentionally take or carry away, use, transfer, conceal or retain possession of moveable property of another without his consent and with intent to deprive the owner permanently of possession of such property.
- B. By virtue of his office, business or employment, or as trustee or bailee, having possession or custody of money or of a negotiable security, instrument, paper or

13. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

other negotiable writing of another, intentionally use, transfer, conceal or retain possession of such money, security, instrument, paper or writing without the owner's consent, contrary to his authority and with intent to convert to his own use or to the use of any other person except the owner. A refusal to deliver any money or a negotiable security, instrument, paper or other negotiable writing which is in his possession or custody by virtue of his office, business or employment or as trustee or bailee upon demand of the person entitled to receive it or as required by law is prima facie evidence of an intent to convert to his own use within the meaning of this subsection.

- C. Having a legal interest in moveable property, intentionally and without consent take such property out of the possession of a pledgee or other person having a superior right of possession with intent thereby to deprive the pledgee or other person permanently of the possession of such property.
- D. Obtain title to the property of another by deceiving him intentionally with a false representation which is known to be false, made with intent to defraud and which does defraud the person to whom it is made. "False information" includes a promise made with intent not to perform it if it is a part of a false and fraudulent scheme.
- E. Intentionally fail to return any personal property which is in his possession or under his control by virtue of a written lease or written rental agreement within 10 days after the lease or rental agreement has expired.

§ 6-32. Retail theft.

- A. No person shall intentionally alter indicia of price or value of merchandise or take and carry away, transfer, conceal or retain possession of merchandise held for resale by a merchant or property of the merchant without his consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise.
- 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 such person or concealed by a person 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 the person in a reasonable manner for a reasonable length of time to deliver the person to a peace officer, or to his parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls but shall not be interrogated or searched against his will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Any merchant or merchant's adult employee who acts in good faith in any

act authorized under this section is immune from civil or criminal liability for those acts.

§ 6-33. Failure to pay for products or services.

No person shall order or accept any product, accommodations or services from any innkeeper, hotel, motel, restaurant, gasoline service station, ski hill, or any merchant or business place and fail to pay the reasonable charge therefor.

§ 6-34. Issuance of worthless checks.

- A. No person shall issue any check or other order for the payment of money in a sum not less than \$5 nor more than \$500 which, at the time of issuance, he intends shall not be paid. Section 943.24, Wis. Stats., and subsequent amendments thereto are hereby adopted in their entirety.
- B. Any of the following is prima facie evidence that the person at the time he issued the check or other order for the payment of money intended it should not be paid:
 - (1) Proof that, at the time of issuance, he did not have an account with the drawee.
 - (2) Proof that, at the time of issuance, he did not have sufficient funds or credit with the drawee and that he failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
 - (3) Proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and he failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.
- C. This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check.

§ 6-35. Children's Code adopted.

Except as otherwise specifically provided in this chapter, all provisions of Ch. 48, Wis. Stats., including any future revisions or amendments thereto, describing and defining regulations with respect to children, including penalties to be imposed and procedure for prosecution, are hereby adopted and by reference made part of this chapter as if 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 chapter.

§ 6-36. Habitual truancy.

- A. General provisions and definitions. A child is prohibited from being a habitual truant.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

ACCEPTABLE EXCUSE — An acceptable excuse as defined in §§ 118.15 and

118.16(4), Wisconsin Statutes.

HABITUAL TRUANT — A pupil who is absent from school without an acceptable excuse under §§ 118.15 and 118.16(4), Wis. Stats., for part or all of five or more days on which school is held during a school semester.¹⁴

C. Penalty. Upon finding that a child is a habitual truant, the court shall enter an order making one or more of the following dispositions:

- (1) Suspend the child's operating privilege, as defined in § 340.01(40), Wis. Stats., for not less than 30 days nor more than one year. The judge shall immediately take possession of the suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice stating the reason for and duration of the suspension.¹⁵
- (2) Order the child to participate in counseling, community service or a supervised work program under § 938.34(5g), Wis. Stats.
- (3) Order the child to remain at home except during the hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a child to leave his or her home if the child is accompanied by a parent or guardian.
- (4) Order the child to attend an educational program under § 48.345(12), Wis. Stats.¹⁶

§ 6-37. Contributing to truancy.

Section 948.45, Wis. Stats., including all future revisions, additions and amendments thereto, is hereby adopted by reference as though fully set forth herein.

§ 6-38. Curfew. [Amended 6-14-2004]

A. Curfew hours.

- (1) Curfew hours for minor persons under 16 years of age shall be from 10:00 p.m. to 4:00 a.m.
- (2) Curfew hours for minor persons 16 and 17 years of age shall be:
 - (a) From 10:30 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 4:00 a.m. of the following day; and
 - (b) From 12:00 midnight to 4:00 a.m. on any Friday or Saturday.

14. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

15. Editor's Note: Amended at time of adoption of Code (see Code Adoption Ordinance).

16. Editor's Note: Original § 6.38(d), References to statutes, which immediately followed this subsection, was deleted at time of adoption of Code (see Code Adoption Ordinance). See now the definition of "Wisconsin Statutes" in Ch. 1, § 1-2.

B. Offenses.

- (1) A minor commits an offense if he/she remains in any public place or on the premises of any establishment within the Town during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he/she knowingly permits or by insufficient control allows the minor to remain in any public place or on the premises of any establishment within the Town during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he/she knowingly allows a minor to remain upon the premises of an establishment during curfew hours.

C. Defenses.

- (1) It is a defense to prosecution under Subsection B(1) to (3) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Police Department about the minor's presence;
 - (g) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the Town, a civic organization or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the Town, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended.
- (2) It is a defense to prosecution under Subsection B(1) to (3) that the owner, operator or employee of an establishment promptly notify the Police Department that a minor was present on the premises of the establishment during the curfew hours and refused to leave.

- D. Enforcement. Before taking any enforcement action under Subsection B(1) to (3) a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense is present.

§ 6-39. Violations and penalties.

Except as otherwise provided in this chapter, any person found to be in violation of any provision hereof, or any rule, regulation or order made hereunder, upon conviction thereof, shall be subject to a penalty as provided in Chapter 1, § 1-4 of this Code.