

Chapter 5

Offenses by Juveniles

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Sec. 11-5-1 Village Jurisdiction Over Persons 12 through 16 Years of Age.

- (a) Adoption of State Statute. Sections 938.02 and 938.17(2), Wis. Stats. , are hereby adopted and by reference made a part of this Section as if fully set forth herein.
- (b) Provisions of Ordinance Applicable to Persons 12 through 16 Years of Age. Subject to the provisions and limitations of Sec. 938.17(2), Wis. Stats. , complaints alleging a violation of any provision of this Code of Ordinances against persons 12 through 16 years of age may be brought on behalf of the Village of Muscoda 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 Muscoda Code of Ordinances, no person age 12 through 16 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 12 through 16 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.

Sec. 11-5-2 Curfew.

- (a) **Curfew Established.** It shall be unlawful for any person under age eighteen (18) 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 Muscoda between the hours of 10:00 p.m. and 5:30 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 therefor. 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 therefor:
- (b) **Exceptions.**
- (1) This Section shall not apply to a child:
 - a. Who is performing an errand as directed by his parent, guardian or person having lawful custody.
 - b. Who is on his own premises or in the areas immediately adjacent thereto.
 - c. Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - d. Who is returning home from a supervised school, church or civic function, but not later than sixty (60) minutes after the ending of such function.
 - (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.
- (c) **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under age eighteen (18) to allow or permit such person to violate the provisions of (a) or (b) above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the police department shall not be considered to have allowed or permitted any person under age eighteen (18) 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. 48.277 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 Grant or Iowa 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. 11-5-3 Truancy.

- (a) **Definitions.** As used in this Section, the following definitions shall apply:

- (1) **Truant-** A pupil who is absent from school without an acceptable excuse under Secs. 118.15 and 118.16(4), Wis. Stats. , for part or all of any day on which school is held during a school semester.

- (b) **Truancy Prohibited.**

- (1) No person within the Village limits of the Village of Muscoda who is under eighteen (18) years of age may be truant from school.
- (2) The following dispositions shall be available to the Court upon a finding of a violation of Subsection (b)(1):
 - a. An order for the person to attend school.
 - b. A forfeiture of not more than Fifty Dollars (\$50.00) plus costs for a first violation, or a forfeiture of not more than One Hundred Dollars (\$100.00) plus costs for any second or subsequent violation committed within twelve (12) months of a previous violation, subject to Sec. 938.37, Wis. Stats. , and subject to a maximum cumulative forfeiture amount of no more than Five Hundred Dollars (\$500.00) for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
- (3) A person who is under seventeen (17) years of age on the date of disposition is subject to Sec. 938.342, Wis. Stats.

(e) 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.

(f) 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) Penalties

- 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. 11-5-4 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 946.71 or 946.715, 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. 11-5-5 Purchase or Possession of Tobacco and Nicotine Products.

- (a) **Definition of Tobacco Products.** For the purposes of this Section, "tobacco products" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.
- (b) **Definition of Nicotine Products.** For the purposes of this Section, "nicotine product" has the meaning given in Wisconsin Statute Section 134.66(1)(f)
- (c) **Purchase by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to purchase tobacco or nicotine products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco or nicotine products.
- (d) **Possession By Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years to possess any tobacco or nicotine products.
- (e) **Possession of Tobacco or Nicotine Product by a Student.** No student, regardless of age, shall possess any tobacco or Nicotine product while on school property.

Sec. 11-5-6 Enforcement and Penalties.

- (a) **Citation Process.** For violations of Sections 11-5-2 through 11-5-5, 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 11-5-5 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.