

## CHAPTER 31

### OFFENSES AGAINST PUBLIC PEACE, SAFETY AND MORALS

#### 31.01 REGULATION OF NOISE.

- (1) DECLARATION OF FINDINGS AND POLICY
  - (a) Excessive sound is a serious hazard to the public health and welfare, safety and the quality of life. A substantial body of science and technology exists by which excessive sound may be substantially abated, and village residents have a right to and should be ensured an environment free from excessive sound that may jeopardize their health or welfare or safety or degrade the quality of life.
  - (b) It is declared to be the policy of the city to prevent excessive sound which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.
- (2) SCOPE OF ORDINANCE
  - (a) This ordinance shall apply to the control of all noise within the Village of Allouez.
- (3) DEFINITIONS.
  - (a) ANSI Definitions Adopted. All acoustical terminology shall be that contained in ANSI (American National Standards Institute or its successor bodies) S1.1, "Acoustical Terminology."
  - (b) A Bank Level. The total sound level of all sound as measured with a sound level meter using the A-weighted network. The unit of measurement is the dB(A).
  - (c) Daytime Hours. The hours between 7:00 A.M. and 10 P.M.
  - (d) Decibel. A standard unit for measuring sound pressure levels that is equal to one-tenth of a bel and is a unit of level when the base of the logarithm is the tenth root of ten, and the quantities concerned are proportional to power; abbreviated "dB."
  - (e) Frequency. The reciprocal of the primitive period of a function periodic in time. The unit is the cycle per unit time and must be specified; typically this unit will be Hertz (Hz) i.e. cycles per second.
  - (f) Light Motor Vehicle. Any automobile, van, motorcycle, motor driven cycle, motor scooter, or light truck with a gross vehicular weight of less than eight thousand (8,000) pounds.

- (g) Nighttime Hours. The hours between 10:00 P.M. and 7:00 A.M.
- (h) Person. Any person, firm, association, co-partnership, joint venture, corporation, or any entity public or private in nature.
- (i) Public Right-of-Way. Any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a governmental entity.
- (j) Real Property Boundary. An imaginary line along the ground surface and its vertical extension which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
- (k) Sound. An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (l) Sound Analyzer. A device for measuring the band pressure level or pressure spectrum level of a sound as a function of frequency.
- (m) Sound Level Meter. An instrument including a microphone, an amplifier, an output meter, and frequency weighing networks for the measurement of noise and sound levels in a specified manner.
- (n) Sound Pressure Level. The sound pressure level, in decibels of sound, is 20 times the logarithm to the base ten of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.
- (o) Zones, The following zones as defined in Ch.11, Allouez Municipal Code, are included in the zone categories.
  - 1. Residential. "A" Residence District, "B" Residence District, High Density District, First Residence and Second Residence Off-Street Parking. Parks, school facilities, governmental office buildings and publicly-owned parkways and conservancies are included in this category.

2. Commercial. "C" Professional Office and Residence District, High Rise District, Commercial District, Light Industrial District, and Highway Business Use District are included in this category.

(4) LIMITATIONS.

- (a) Maximum Levels within Zones. No person shall operate or cause to be operated on private or public property any source of sound in such a manner as to create a sound level which exceeds the limits set for the zone categories in Tables I and II. The maximum level between commercial to residential shall not exceed 3 dB(A) over the residential sound pressure levels either daytime or nighttime.

TABLE I  
Maximum Permissible Sound Pressure - Daytime Hours  
(in Decibels)

Octave Band Center Frequency	Residential	Commercial
31.5	70	80
63	69	79
125	64	73
250	58	65
500	52	59
1000	47	53
2000	42	47
4000	38	42
8000	35	40
A-Scale Levels	57dB (A)	63dB (A)

TABLE II  
Maximum Permissible Sound Pressure - Nighttime Hours  
(in Decibels)

Octave Band Center Frequency (Hz)	Residential	Commercial
31.5	69	72
63	68	71
125	62	66
250	54	60
500	48	54
1000	42	49
2000	36	44
4000	31	40
8000	29	37
A-Scale Levels	52dB (A)	58dB (A)

MOTOR VEHICLE LIMITATION.

- (a) 80 dB(A) Noise Limit. It shall be unlawful for any person to cause noise levels from the operation of a light motor vehicle in excess of 80 dB(A) at any location within the corporate limits of the village. Measurement shall be made at any distance equal to or greater than 15 feet from the closest approach to the vehicle.
  - (b) Motor Vehicles. Every motor vehicle shall, at all times, be equipped with a muffler in good working order and in constant operation to prevent excessive or unreasonably loud noise, smoke or flame; and no person or owner shall operate or allow to be operated a motor vehicle upon the streets of this village which is not so equipped or which is equipped with a muffler cutout, bypass, or any similar device. A muffler is defined as a device consisting of a series of chambers or other mechanical devices for the purpose of receiving exhaust gases from an internal combustion engine which is designed for the purpose of breaking up the sound tones and the diffusion of smoke and flame emitting therefrom.
  - (c) Motorcycles. No person shall, nor shall the owner allow any person to, operate a motorcycle manufactured after December 31, 1982, that is not equipped with an exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, as set out in the Code of Federal Regulations Title 40.
  - (d) Mufflers. No person shall sell, give away for use upon, install or cause the installation to be made, or use any licensed motor vehicle operated on a highway in the Village of Allouez, any type of muffler or other device that will modify the exhaust system of a motor vehicle in any manner so as to amplify or increase the noise emitted by the motor of such motor vehicle to the point where it becomes excessive or unreasonably loud.
- (5) ELECTRIC SOUND AMPLIFICATION.
- (a) Nighttime Hours (10:00 p.m. to 7:00 a.m.). During nighttime hours, no person may operate a radio, jukebox, or other electric sound amplification device emitting sound from any commercial zone or commercial premises that exceeds the maximum permissible sound pressure in Table II in a residential zone at a distance of 75 feet beyond the lot line of the property which emits the sound, or at the property line of a residential

property which is affected by the sound, whichever is deemed appropriate by the Village given the situation that occurs.

(b) Use on street. No person shall use any loudspeaker on residential streets of the Village except under permit granted by the Village, such as a block party permit issued by the Village, which permit shall have limited hours of use for the loudspeaker.

(c) Permits. The Village shall not grant a permit to use a loud speaker during nighttime hours or to operate such loud speaker in the vicinity of health facilities, churches while services are being conducted, or schools which are in session. The Village may order a reduction in the volume of such loud speaker on complaint being made by a citizen or when such loud speaker is a nuisance because of the volume, the method in which it is being used, or the location in which it is being operated.

(6) MEASUREMENT.

(a) Measurement Location. The measurement shall be made at or beyond the property on which such noise is generated or at or within the property line of the property on which such noise is perceived, as appropriate. Measurement shall be done at a minimum height of four feet above the ground.

(b) Sound Measurement. When required pursuant to his ordinance, measurement of sound pressure shall be made either with a sound level meter that meets or exceeds the ANSI requirements of the American Standard Specification for Sound Level Meters, Type I or Type II (ANSI S1.4 - 1971) or with an octave band analyzer that meets or exceeds the requirements of ANSI (S1.6 - 1960) or any subsequent nationally adopted standards superseding the above standards. In both cases, the instruments should be maintained in calibration and good working order and operated in accordance with the manufacturer's instructions. When a sound level meter is used, it shall be set to the A-weighted scale and in the FAST response mode. A windscreen shall be mounted on the microphone and the noise limitations shall be the A-scale levels set forth above. An octave band analyzer may be employed when there is a concentration of sound energy within a limited number of bands, but its use shall not be restricted to such situations.

(7) EXEMPTIONS. The following activities shall be exempt from the regulations of this section, provided reasonable steps are taken to minimize the noise emitted.

- (a) Construction Sites, Public Utility Projects, Public Works. The daytime criteria, as set forth in (2) shall not apply to construction sites, public utilities, and public works projects and operations during daytime hours Monday through Saturday, however, the noise shall be minimized through proper equipment operations and maintenance. The nighttime criteria, as set forth in (2), shall not apply to Department of Public Works - personnel engaged in snow plowing or street sweeping. Stationary equipment on construction projects lasting more than 10 days within residential districts shall be shielded or located to prevent unnecessary noise.
  - (b) Emergency Operations. Emergency short-term operations necessary to protect the health and welfare of the citizens.
  - (c) Noises Required By Law. Any noise required specifically by law for the protection, health, welfare or safety of people or property.
  - (d) Power Equipment. Power equipment during daytime hours such as lawn mowers, small lawn and garden tools, and riding tractors necessary for the maintenance of property, kept in good repair and maintenance, which, when new, would not comply with the standards set forth in this section.
  - (e) Snow Removal Equipment. The use of snow removal equipment to remove snow from a path of travel.
  - (f) Bells, Chimes. Bells, chimes, and similar devices which signal the time of day and operate during the daytime hours for a duration of no longer than 15 minutes in any given hour during daytime hours.
  - (g) Warning Device. Any device being used to request assistance or warn against an unsafe condition.
- (8) VARIANCES.
- (a) Special Variance Permits.
    - 1. General. A special variance permit may be issued for an event or circumstance of limited duration, including, but not limited to, special community events.
    - 2. Application. Any person seeking a special variance permit pursuant to this section shall file an application with the Village Administrator, 30 days prior to the commencement of the event or activity for which the variance permit is requested. The Village Administrator

may waive the time limit when compliance therewith is impractical. The application for a special variance permit must be made in writing and shall contain all information deemed necessary by the Village Administrator. A special variance permit may be granted when the Village Administrator finds that the variance promotes a public interest and results in minimal harm to the public health, safety and welfare.

3. Issuance. Special variance permits shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance permit shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any condition of these special variance permits shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity for which the special variance is granted.
4. Extension or modification. Application for extension of time limits specified in special variance permits or for modification of other substantial conditions shall be treated like applications for initial special variances.

(b) Conditional Variances.

1. General. Conditional variances may be issued for ongoing or recurring sources of sound which do not comply with the standards of this ordinance for technical or economic reasons.
2. Application. The Village of Allouez may grant conditional variances if it finds that the variance promotes a public interest and results in minimal harm to the public health, safety and welfare. The application shall be made in writing to the Village Administrator not less than 30 days prior to commencement of sound producing operations.
3. Hearing. The application shall be publicly heard before the Village Board. The applicant may be required to submit such additional information as the Village Board reasonably requires.
4. Issuance. Conditional variances shall not be issued until the applicant has agreed to the conditions therein.

Noncompliance with any condition of a conditional variance shall terminate it and subject the person holding it to those provisions of this section regulating the source of sound or activity. The Village Board may require the applicant to post a performance bond prior to issuing the variance.

5. Extension or modification. Application for extension of time limits specified in special variance permits or for modification of other substantial conditions shall be treated like applications for initial special variances.

(c) Appeal. An appeal from a decision regarding a variance request may be taken to a court of competent jurisdiction.

(9) ENFORCEMENT AND PENALTIES.

(a) An enforcement officer may issue a citation for any violation of this ordinance if the enforcement officer witnesses the violation or receives a sworn, written complaint from at least one witness of the excessive or unreasonably loud noise, subject to the owner refusing or neglecting to allow the vehicle from being inspected by the Police Department.

(b) Any person who violates any provision of this ordinance shall forfeit not less than \$50 nor more than \$1000 for each violation. Each day a violation exists shall constitute a separate offense.

(10) SEVERABILITY. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance or the application of such other provisions to other persons or circumstances shall not be affected.

31.02 ASSAULT AND BATTERY.

A. No person shall commit an assault. **Assault** is defined as an attempt to commit a battery, as defined herein by Section 31.02 B.

B. No person shall commit a battery. **Battery** is defined as the causing of bodily harm to another by an act done with the intent to cause bodily harm to that person or another, without the consent of the person so harmed.

31.03 DISORDERLY CONDUCT.

No person, in a public or private place, shall engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly

conduct under circumstances in which such conduct tends to cause or provoke a disturbance.

31.04 INTOXICATION.

No person shall appear in any public place in such a state of intoxication as to disturb others or be unable by reason of his condition to care for his own safety or the safety of others.

31.05 DISTURBING ASSEMBLY.

No person shall at any time willfully interrupt or molest any assembly or meeting of people for religious worship or for other purposes lawfully and peacefully assembled.

31.06 REMOVING SIGNS OR MARKERS.

Refer to Section 27.04 B(2) (a).

31.07 TRESPASS.

- A. It shall be unlawful and it is hereby prohibited for any person to trespass, prowl or window peep upon the property of another or to trespass on his garden or shrubs without such other's consent. Except where permitted, no person shall trespass upon public property. No person shall permit any animal belonging to him or under his control to trespass or be upon the property, garden or hedge belonging to another person or upon any seeded or sodded and maintained area with the boundaries of a public street, unless permission therefor be secured from the owner.
- B. It shall be unlawful and it is hereby prohibited for any person to trespass upon any Village owned stormwater facility including but not limited to stormwater detention/ retention ponds.

31.08 DISCARDED REFRIGERATORS.

No person shall leave outside of any building or dwelling, in a place accessible to children, any abandoned, unattended, or discarded ice box, refrigerator, or any other container of any kind which has an airtight door, airtight snap lock, or other device thereon which cannot be opened by pushing from the inside of the ice box, refrigerator, or container with the force of a small child, without first removing the snap locks or doors from the ice box, refrigerator, or container.



to close upon, hold fast, or otherwise capture a wild animal or animals. "Wild animal" means any mammal, bird, fish or other creature of a wild nature endowed with sensation and the power of voluntary motion.

31.10 DISCHARGE OF WEAPONS OTHER THAN FIREARMS.

- A. No person shall carry, unless encased and unloaded, or cause any BB, pellet, stone, dart, metal-tipped arrow or similarly dangerous missile to be discharged from, any air gun, BB gun, CO2 operated gun, pellet gun, sling shot, or bow on public property in the Village of Allouez.
- B. The carry and discharge of those weapons identified in Section 31.10 A. will be allowed strictly within the confines of a person's private property and the projectile shall not traverse the property boundaries and shall in no event be discharged when it is reasonably likely to cause possible injury and/or property damage except the discharge of CO2 operated guns and bow and arrows is only permitted within a person's residence on private property and in no event be discharged when it is reasonably likely to cause possible injury and/or property damages.
- C. Violation and Penalties. Any person who violates the provisions of Section 31.09 A. and 31.10 A. and B. shall be subject to a forfeiture of not less than \$500 nor more than \$5,000.

31.11 FIREWORKS.

No person shall possess, ignite, use or discharge any fireworks in the village except as provided by Section 167.10, Wisconsin Statutes, as the same may be amended from time to time.

31.12 CURFEW.

A. Hours.

No child under the age of 16 years shall be in, or upon any street, sidewalk, alley, public grounds, public building or any public place of accommodation or amusement in the Village of Allouez between the hours of 10:00 p.m. and 6:00 a.m. the following day unless accompanied by a parent, guardian, adult relative, or other adult person having the actual care, custody and control of such child, except when such child is lawfully employed and is en-route by the most practical direct route between his residence and the place of employment; and except when such child is returning to his home from a supervised or organized event and for activities protected by the First Amendment which occurred during curfew hours which include but are not limited to Take Back the Night Rallies, religious ceremonies, memorial candle light vigils, Midnight Mass and political rallies at the end of a campaign. The provisions of this subsection shall apply whether such child is on foot or is in, on or upon any vehicle or other means of conveyance.

B. Parents' Duties.

No parent, guardian, adult relative or adult person having the actual care and custody of a child under the age of 16 years shall permit or allow any such child under his care, custody and control to be in, on or upon any street, sidewalk, alley, public grounds, public building, or any public place of accommodation or amusement in the Village of Allouez between the hours of 10:00 p.m. and 6:00 a.m. the following day unless accompanied by a parent, guardian, adult relative or other person having the actual care, custody and control of such child, except when such child is lawfully employed and is en-route by the most practical direct route between his residence and the place of employment; and or organized event and for activities protected by the First Amendment which occurred during curfew hours which include but are not limited to Take Back the Night Rallies, religious ceremonies, memorial candle light vigils, Midnight Mass and political rallies at the end of a campaign. The provisions of this subsection shall apply whether such child is on foot or is in, on or upon any vehicle or other means of conveyance. It shall not be necessary to prove the element of intent in any proceeding under this section.

C. Violations.

(1) Any child found violating or who is suspected of violating the provisions of this section may be detained and such detention and his release shall be in accordance with the provisions of Chapter 48 of the Wisconsin Statutes.

(2) All proceedings against any child for a violation of this section shall be in accordance with the provisions of Chapter 48 of the Wisconsin Statutes.

(3) Any person convicted of violating subsection B. of this section shall forfeit not less than \$25.00 nor more than \$200.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be confined in the Brown County Jail until such forfeiture and costs are paid but not exceeding 10 days.

D. Definitions.

In this section the words **child**, **parent**, **guardian** and **relative** shall have the meanings as defined in Chapter 48 of the Wisconsin Statutes. In this section the phrase public place of accommodation or amusement shall mean, without limitation because of enumeration, any restaurant, tavern, bowling alley, drug store, service station or public garage, barber shop, retail establishment, or other place of business open to the general public.

31.13 REGULATION OF PARK AND RECREATION FACILITIES.

A. Purpose.

It is hereby declared to be the policy of the Village of Allouez to regulate and control the operation and parking of any motor vehicle on public park grounds; to prevent loitering or lounging in public park grounds during certain hours; to prevent the carrying or use of firearms on public park grounds; to prevent injury to trees, plants, and other vegetation, or to any Village property found on public park grounds; to prevent the building of fires in places other than approved grills or fireplaces on public park grounds; to prevent littering and disorderly conduct on public park grounds; and to enforce posted rules, regulations and ordinances of the Village and its Department of Parks and Recreation, and its Maintenance Department, for the use or enjoyment of any facilities upon such public grounds.

B. Motor Vehicles.

It shall be unlawful for any person to:

- (1) Park any motor vehicle upon such public park grounds except within the limits of clearly marked parking areas, and except as allowed by permit issued by the Village Board.
- (2) Operate any vehicle upon such public park grounds except upon clearly marked public roadways.
- (3) Operate any vehicle upon any roadway within the limits of such public park grounds at a speed in excess of 10 miles per hour.
- (4) Park any vehicle upon such public park grounds between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m. of the following morning, except as allowed by permit issued by the Village Board.

C. Horses.

It shall be unlawful for any person to drive or ride a horse upon public park grounds, except upon clearly marked public roadways.

D. Loitering.

It shall be unlawful for any person to loiter or lounge upon public park grounds between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m. of the following morning except as allowed by permit issued by the Village Board.

E. (deleted)

F. Destruction of Property.

It shall be unlawful for any person to:

- (1) Disturb, molest, deface, remove, or destroy any tree, shrub, plant or natural growth on public park grounds.
- (2) Carve or paint on any rock, sign, wall or structure on public park grounds.
- (3) Drive any nail into any tree on public park grounds.
- (4) Injure or deface in any manner any park building, public facility, sign, fence, table or other village property on public park grounds.
- (5) Dig into or break up the ground surface anywhere in any public park grounds except as allowed by permit issued by the Village Board.

G. Fires.

It shall be unlawful for any person to build any fires upon public park grounds except in a fireplace or approved grill, or to dispose of live embers of any fire where they may start a grass or forest fire, or endanger public health or safety.

H. Littering.

It shall be unlawful for any person who is upon public park grounds to leave, throw or break any bottle, box, can, garbage or other object except in clearly marked refuse receptacle.

I. Disorderly Conduct.

It shall be unlawful for any person to be intoxicated, use profane language, practice rowdiness, set off fireworks, or otherwise conduct himself or herself in a disorderly manner upon any public park grounds.

J. Regulations and Ordinances.

It shall be unlawful for any person to fail, refuse or neglect to obey any regulation, posted rule or ordinance of the Village or its Department of Parks and Recreation, or its Maintenance Department, pertaining to the use and enjoyment of any facilities upon such public grounds.

K. Penalty.

Any person convicted of violating the provisions of this section shall be subject to the penalties imposed by Section 1.05 of the Allouez Village Code.

31.14 RAILROAD WARNING DEVICES.

A. Locomotives.

No railroad engineer, railroad employee or other person in charge of any locomotive shall sound, or allow or permit to be sounded, any steam whistle

or other warning device on a locomotive within the limits of the Village of Allouez, between the hours of 10:00 o'clock p.m. and 6:00 o'clock a.m. the following morning, except in case of imminent danger to life and property or where the same is required by state law.

B. Penalty.

Any person convicted of violating subsection A. of this section shall forfeit not less than \$25.00 nor more than \$200.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs shall be confined in the Brown County Jail until such forfeiture and costs are paid, but not exceeding 10 days.

31.15 SHOPLIFTING.

- A. No person shall intentionally alter the indicia of price of value or merchandise, or take and carry away, transfer, conceal or retain possession of merchandise held for resale by a merchant without his consent and with the intent to deprive the merchant permanently of possession or the full price of such 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 or her presence may detain such person in a reasonable manner for a reasonable length of time to deliver him or her to a peace officer, or to his or her 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 he or she shall not be interrogated or searched against his or her will before the arrival of a peace 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. Any person convicted of violating subsection A. of this section shall forfeit not less than \$25.00 nor more than \$500.00, plus the retail price of each item that was shoplifted (rounded off to the next highest \$10 amount), together with the prosecution costs imposed by the Wisconsin Statutes. In default of payment of such forfeiture and costs, such person shall be committed to the Brown County Jail until such forfeiture and costs are paid, but not exceeding 45 days; or, such person's driver's license shall be suspended according to the laws of the State of Wisconsin.

31.16 FRAUDULENT TAPPING OF UTILITY WIRES, METERS OR PIPES.

A. Prohibition.

Section 941.36, Wisconsin Statutes, exclusive of any of its provisions relating to penalties or punishment to be imposed for any violation of it, is hereby adopted and made a part hereof the same as if it had been set forth in full herein, and all acts specifically prohibited by such statute are prohibited hereby.

B. Penalty.

Any person convicted of violating the provisions of this ordinance shall be subject to the penalties imposed by Section 1.05 of the Allouez Village Code.

31.17 REGULATION OF EMERGENCY ALARM SYSTEMS.

A. Purpose.

It is hereby declared to be the policy of the Village of Allouez to encourage the installation of reliable emergency alarm systems to provide additional protection from fire, crime and other hazards which might be a danger to persons and/or property, but to discourage the incidence of preventable or avoidable false alarms and protect the Village for damage claims which may arise from the Village's responding to a false alarm.

B. Definitions.

- (1) **Alarm business** means any business operated by a person for profit which alters, installs, leases, maintains, monitors, replaces, sells, services or responds to an alarm system, or which causes any of these activities to take place.
- (2) **Alarm system** means one or more devices installed or placed to signal the presence of a hazard requiring urgent attention to which police or the Fire Department are expected to respond.
- (3) **Alarm user** means any person who owns or rents the premises on which an alarm system is maintained within the Village.
- (4) **False alarm** means the activation of an alarm system through negligence of the owner or lessee of an alarm system or of his employees or agents, the activation of an alarm system through mechanical failure or malfunction because of improper maintenance by the alarm user, or the activation of an alarm system because of improper installation and/or use of equipment by the alarm business; but does not include alarms caused by hurricanes, tornadoes, earthquakes or other violent conditions of acts of God.
- (5) **Person** means any person, firm, partnership, association, corporation, company or organization of any kind.

- (6) **Burglary Alarm** system means an alarm system signaling an entry or attempted entry into the area protected by the system.
- (7) **Hold-up Alarm** system means an alarm system in which the signal transmission is initiated by the action of the robber or employee of the protected premises.
- (8) **Fire Alarm** means an alarm system signaling the presence of fire or smoke.
- (9) **Proprietary system** means an alarm system sounding and/or recording alarm and supervisory signals at a control center located within the protected premises, the control center being under the supervision of the proprietor of the protected premises, but which is not connected directly or by means of an automatic dialing device to a police or fire communication center, a central station or answering service.

C. False Alarms.

- (1) An alarm user shall pay to the Village Clerk-Treasurer within 10 days after activation, the following service fees for false alarms: These charges are per calendar year.

First False Alarm	No charge if a permit is on file. \$25.00 charge if a permit is <u>not</u> on file and an application for permit is mailed with the invoice.
Second False Alarm	\$25.00
Third False Alarm	\$50.00
Each Subsequent False Alarm	\$75.00

- (2) An alarm user shall correct any deficiencies in equipment or operation of his alarm system within thirty days following either his actual knowledge of such deficiency or the mailing by certified mail of a written notice from the Village Clerk-Treasurer, whichever date is earliest. In the event that such deficiency cannot be corrected within the 30-day period, the alarm system shall be deactivated until such corrections are completed.

D. Activation Time.

No alarm user shall allow, permit, install, use or maintain on his premises any alarm system which, when activated, causes an audible and/or visual signal externally to the premises upon which it is located, for a period in excess of 15 minutes.

E. Sale of Alarm Systems.

Canvassers, solicitors, peddlers, and transient merchants involved in the sale of alarm systems within the Village of Allouez shall comply with the provisions of Chapter 21 of the Allouez Code of General Ordinances.

31.18 OFFENSES AGAINST PEACE AND GOOD ORDER OF STATE LAWS ADOPTED.

A. Except as otherwise specifically provided in this ordinance, the below listed provisions of Chapters 29, 50, 167, 175, 939, 941, 943, 944, 946, 947, 948, 951 and 961 of the Wisconsin Statutes describing and defining offenses against the peace and good order of the State, including procedure for prosecution, are hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act by any statute incorporated herein by reference: required to be performed is required to be performed by this ordinance; prohibited is prohibited by this ordinance. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this Chapter.

- 1) s. 29.288 Throwing Refuse in Waters/Abandoning Automobiles, Boats or Other Vehicles
- 2) s. 50.58 Causing Fires by Tobacco Smoking
- 3) s.167.10 Fireworks Regulated
- 4) s.175.25 Storage of Junked Automobiles
- 5) s.939.05 Parties to Crime
- 6) s.939.22 Words and Phrases Defined
- 7) s.941.03 Highway Obstruction
- 8) s.941.10 Negligent Handling of Burning Material
- 9) s.941.12 Interfering with Fire Fighting
- 10) s.941.23 Carrying Concealed Weapon
- 11) s.941.235 Carrying Firearm in Public Building
- 12) s.941.237 Carrying Handgun where Alcohol Beverages may be Sold and Consumed
- 13) s.943.01(1) Criminal Damage to Property
- 14) s.943.12 Possession of burglarious tools
- 15) s.943.13 Criminal Trespass to Land
- 16) s.943.14 Criminal Trespass to Dwellings
- 17) s.943.20 Theft
- 18) s.944.15 Fornication
- 19) s.944.17 Sexual Gratification
- 20) s.944.20 Lewd and Lascivious Behavior
- 21) s.944.23 Making Lewd, Obscene, Indecent Drawing
- 22) s.944.30 Prostitution
- 23) s.944.31 Patronizing Prostitutes
- 24) s.944.33 Pandering
- 25) s.944.34 Keeping Place of Prostitution
- 26) s.944.36 Solicitation of Drinks Prohibited
- 27) s.946.40 Refusing to Aid Officer
- 28) s.946.41 Resisting or Obstructing Officer
- 29) s.946.65 Obstructing Justice
- 30) s.946.70 Impersonating Peace Officer
- 31) s.946.72 Tampering with Public Records & Notices
- 32) s.947.0125 Unlawful use of computerized communication systems
- 33) s.947.013 Harassment
- 34) s.948.61 Dangerous weapons other than firearms on school premises
- 35) s.951.01 to s.951.18 Crimes Against Animals
- 36) s.961.41(3g) (em) Synthetic Cannabinoids
- 37) s.961.573(1) and (2) Possession of Drug Paraphernalia

- 38) s.961.574(1) and (2) Manufacture or delivery of drug paraphernalia
- 39) s.961.575(1) and (2) Delivery of drug paraphernalia to a minor

- B. (1) It is unlawful for any person to possess marijuana as defined in Wis. Stats. §961.01(14), or any subsequent amendment thereto, subject to the exceptions in Wis. Stats. §961.41(3g), except that if a complaint is issued regarding and allegation of possession of more than 25 grams of marijuana or of any amount of marijuana following a conviction in the state for possession of marijuana, the subject of the complaint may not be prosecuted in municipal court for the same action that is the subject of the complaint unless the charges are dismissed or the District Attorney declines to prosecute the case.  
  
(2) For the purpose of this ordinance, **marijuana** shall mean all parts of the plants of the genus cannabis.
- C. The penalty for violation of any of the above-adopted statutes or for violation of subsection B. hereof, shall be imposed in accordance with the provisions of Section 1.05, Penalties, of the Allouez Village Code.
- D. PARTIES TO A VIOLATION. Whoever is concerned in the commission of a violation of this chapter is a principal and may be charged with and convicted of the violation although the person did not directly commit it and although the person who directly committed it has not been convicted of the violation. A person is concerned in the commission of the violation if the person directly commits the violation, intentionally aids or abets the commission of it, is a party to a conspiracy with another to commit it, or advises, hires, counsels, or otherwise procures another to commit it.
- E. ATTEMPT. Whoever attempts to commit a violation of this chapter may be charged with and convicted of the violation. An attempt to commit a violation of this chapter requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such violation and that the actor does acts toward the commission of a violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the violation except for the intervention of another person or some extraneous factor.

31.19 DANGEROUS OR NEGLIGENT USE OF PUBLIC STREETS PROHIBITED.

A. Purpose.

It is hereby declared to be the policy of the Village of Allouez to regulate and provide for the safe use of public streets; to prohibit the dangerous and/or negligent use of public streets by pedestrians; to prohibit the dangerous and/or negligent use of public streets by persons riding in or upon any form of conveyance, whether such a conveyance is motorized or non-motorized and regardless of the means used to propel such a conveyance.

B. Motor Vehicles.

No person shall operate a motor vehicle of any type upon the public streets within the Village of Allouez in a dangerous or negligent manner, or in a manner contrary to any law of the State of Wisconsin, the County of Brown, or the Village of Allouez, which law is intended to regulate the operation of motor vehicles upon public streets and highways.

C. Non-Motorized Vehicles or Conveyances.

No person shall operate or ride in or upon any form of conveyance on any public street, public walkway, or public highway, in a manner which is dangerous, negligent, or in anyway contrary to the safety of himself, herself or any other person using such public street, walkway, or highway, whether as a pedestrian or vehicular traffic.

D. Use of Streets by Pedestrians.

No person shall, while using the public street as a pedestrian, use such a street, public walkway, or highway in a dangerous or negligent manner or in a manner which creates an unnecessary obstruction to vehicular traffic upon a street or highway or which in any way endangers the safety of other persons using that public street, walkway, or highway.

E. Parental Responsibility.

No parent, guardian, or adult person having actual care and custody of a child under the age of 18 years shall knowingly permit that child to violate any provision of this ordinance, and shall be deemed jointly liable and responsible for any action of such child which is found to be in violation of this ordinance. For the purpose of this ordinance, the words **child, parent, and guardian** shall have the meanings as described in Chapter 48 of the Wisconsin Statutes.

F. Penalty.

Any person violating the provisions of this chapter, shall upon conviction thereof, be subject to the penalty provided by Section 1.05 of this Code. A separate offense shall be deemed committed on each day on which a violation of this Chapter occurs or continues.

31.20 SEPARABILITY OF PROVISIONS.

Each section, paragraph, sentence, clause and provision of this code is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this code nor any part thereof, other than that part affected by such decision.

31.21 TRUANCY.

A. Definitions.

- (1) **Habitual truant** means a pupil who is absent from school without an excuse which is acceptable under the provisions of Section 118.15, Wisconsin Statutes, or other provisions of law, for either of the following:
  - (a) Part or all of 5 or more days out of 10 consecutive days on which school is held during a school semester.
  - (b) Part or all of 10 or more days on which school is held during a school semester.
- (2) **ATruant@** means a child who is absent from school without an acceptable excuse under Sections 118.15 and 118.16(4) of the Wisconsin Statutes for part or all of any day in which school is held during a school semester.
- (3) An act or omission shall be deemed to contribute 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 truant.

B. Prohibitions.

- (1) No child shall be a habitual truant.
- (2) No person 18 years of age or older shall knowingly encourage or contribute to the truancy of a child; except that this Section shall not apply to a person who has under his or her control a child who is truant, and that child has been sanctioned under the provisions of Section 49.50 (7)(h), Wisconsin Statutes.
- (3) No child under 18 years of age shall be truant. Any child not in attendance at school, at the child's place of residence, or accompanied by a parent or legal guardian on a day on which school is held during a school semester and during the hours when that child is required to be in attendance at school shall be presumed truant. The child shall have the burden to present the court with evidence sufficient to rebut this presumption.

C. Penalties.

- (1) Upon finding a child to be a habitual truant, the court shall do one or more of the following:
  - (a) Suspend the child's motor vehicle operating privilege, as the same is defined in Section 340.01 (40), Wis. Stats., for not less than 30 days nor more than 90 days, whereupon the court shall immediately take possession of any such suspended operator's license and forward it to the Wisconsin Department

of Transportation together with a notice stating the reason for and the duration of the suspension.

- (b) Order the child to participate in counseling, community service or a supervised work program as provided under Section 48.34 (9), Wis. Stats.
  - (c) Order the child to remain at home except during 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; and such order may also permit the child to leave his or her home if the child is accompanied by the child's parent or guardian.
  - (d) Order the child to attend an educational program under Section 48.34 (12), Wis. Stats.
- (2) A person found guilty of contributing to the truancy of a child, shall be subject to the penalty provisions of Section 1.05 of the Allouez Village Code.
- (3) Any child found by the courts to be truant shall be subject to a forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation. All or part of the forfeiture plus costs may be assessed against the child, the parents or guardian of the child, or both. The authority of the municipal court to impose any such penalty is subject to any other limitations imposed by State Statute. The authority to impose such a penalty does not limit the municipal court in any other fashion to impose any other penalty or remedy available to the municipal court.

31.22 FRAUD ON HOTEL, RESTAURANT KEEPER OR GAS STATION.

- A. No person shall, after having obtained any beverage, food, lodging or other service or accommodation at any hotel, motel, boarding or lodging house or restaurant, intentionally abscond without paying for it.
- B. No person shall, while a guest at any hotel, motel, boarding or lodging house, or restaurant, intentionally defraud the keeper thereof in any transaction arising out of the relationship as guests.
- C. No person shall, after having obtained gasoline or diesel fuel from a service station, garage or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail, intentionally abscond without paying for the gasoline or diesel fuel. In addition to the forfeiture penalties for conviction of this offense the Court may suspend the person's operating privileges for not more than six (6) months for a second offense, the Court shall suspend the person's operating privileges for not more than six (6) months for a third offense and the Court shall suspend the person's operating privileges for one (1) year for a fourth offense.

31.23 ABSCONDING WITHOUT PAYING RENT.

No person who is occupying residential property as a tenant of that property as defined in Section 704.01(4), Wisconsin Statutes, shall intentionally abscond without paying all current and past due rent unless that person has provided that landlord with a security deposit that equals or exceeds the amount that the person owes the landlord regarding rent and damage to property.

31.24 CRIMINAL DAMAGE TO RAILROADS.

- A. No person shall intentionally cause damage or cause another person to damage, tamper, change or destroy any railroad track, switch, bridge, trestle, or signal or any railroad property used in providing rail services, which could cause an injury, accident or derailment.
- B. No person shall intentionally shoot a firearm or throw, shoot or propel a stone, brick or other missile at any railroad train, car, caboose or engine.
- C. No person shall intentionally throw or deposit any type of debris or waste material on or along any railroad track or right-of-way which could cause an injury or accident.

31.25 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.

31.26 ENTRY INTO LOCKED COIN BOX.

A. Intent to Steal.

No person shall intentionally enter a locked coin box of another without consent and with intent to steal.

B. Devices.

No person shall have in his/her personal possession any device or instrumentality intended, designed or adapted for use in breaking into any coin box, with intent to use the device or instrumentality to break into a coin box.

C. Definitions.

In this section coin box shall have the meanings as defined in '943.125(3), Wisconsin Statutes.

31.27 CRIMINAL TRESPASS TO A MEDICAL FACILITY.

No person may intentionally enter a hospital, clinic or office that is used by a physician licensed to practice medicine in the State of Wisconsin without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

31.28 ENTRY ONTO A CONSTRUCTION SITE OR INTO A LOCKED BUILDING, DWELLING OR ROOM.

A. Entry Prohibited.

No person may enter the locked or posted construction site or the locked and enclosed building, dwelling or room of another without the consent of the owner or person in lawful possession of the premises.

B. Definitions.

In this section, construction site, posted and owner or person in lawful possession of the premises shall have the meanings as defined in '943.15(2), Wisconsin Statutes.

31.29 USE OF CHEATING TOKENS.

No person shall obtain the property or services of another by depositing anything which he/she knows is not lawful money or an authorized token in any receptacle used for the deposit of coins or tokens.

31.30 REFUSAL TO PAY FOR A MOTOR BUS OR TAXICAB RIDE.

No person shall intentionally enter a motor bus or taxicab that transports persons for hire and refuse to pay, without delay, upon demand of the operator or other person in charge of the motor bus or taxicab, the prescribed transportation fare.

31.31 ISSUE OF WORTHLESS CHECK.

No person shall issue any check or other order for payment which, at the time of issuance, he/she intends shall not be paid.

31.32 REMOVAL OF SHOPPING CART.

No person shall intentionally remove a shopping cart or stroller from either the shopping area or a parking area adjacent to the shopping area to another place without authorization of the owner or person in charge and with the intent to deprive the owner permanently of possession of such property.

31.33 PURCHASE OR POSSESSION OF TOBACCO PRODUCTS BY CHILDREN PROHIBITED.

Except as otherwise specifically provided in this ordinance, all provisions of Section 938.983 of the Wisconsin Statutes, and as the same may hereafter be amended from time to time, describing and defining regulations with respect to the purchase and possession of tobacco products by children, is hereby adopted and by reference made a part of this ordinance as if fully set forth herein. Any act required to be performed or which is prohibited by any statute incorporated herein by reference is required or prohibited by this ordinance. The penalty for violation of any provision of this ordinance shall be imposed as provided by Section 1.05 of the Allouez Village Code.

31.34 UNLAWFUL USE OF TELEPHONE.

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, or offend, telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act;
- C. Make a telephone call whether or not conversation ensues, without disclosing his or her identity and with intent to abuse or threaten any person at the called number;
- D. Make or cause the telephone of another to repeatedly ring, with intent to harass any person at the called number;
- E. Make repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number; or
- F. Knowingly permit any telephone under his or her control to be used for any purpose prohibited by this section.
- G. Dial the telephone number "911" knowing that no emergency in fact exists or dial the telephone number "911" and report a fact situation that he or she knows does not exist. For purposes of this section, "emergency" shall mean a situation in which property or human life are in jeopardy and the prompt summing of aid is essential.

31.35 PROHIBITION AGAINST LOITERING

- D. Loitering. A person commits a violation if he or she loiters or prowls 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 actor takes flight on appearance of a peace officer, refuses to identify him or her self, or manifestly endeavors to conceal him or her self or any object.

Unless flight by the actor or other circumstances make it impractical, a peace officer shall prior to any arrest for an offense under this section afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting the actor to identify him or her self and explain the presence and or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and if believed by the peace officer at the time would have dispelled the alarm.

E. Prohibited Daytime Loitering by Minors. It is unlawful for any minor under the age of 18 years who is subject to compulsory education to loiter, congregate, wander, stroll, stand, play, or be in or upon the public streets, highways, roads, alleys, parks, playground, or other public grounds, public places, public buildings, places or amusement, eating places, vacant lots, or any other unsupervised place during hours of required school attendance. Unless flight by the actor or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted by requesting the actor to identify him or her self or explain their absence from school or other conduct. Additionally, this section does not apply:

1. When the minor is accompanied by his or her parent, guardian or other adult person having the care or custody of the minor; or
2. When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care or custody of the minor; or
3. When the minor is going or coming directly from or to his or her place of gainful employment, or to or from a medical appointment; or
4. To students who have permission to leave school campus for lunch or for school related activities and have in their possession a valid, school issued, off campus permit.

### 31.36 CAMPING ON PUBLIC PROPERTY.

No camping is allowed on any public property or parking lots held out for public use in the Village of Allouez. Camping is defined as temporary shelters such as tents or the use of a motor home or the use of a pop-up trailer as a temporary shelter. Public property is that property owned by the Village of Allouez and any property held open for public use and includes all Village Parks and Streets. No camping is allowed in Village Parks unless authorized by the Park Director. The parking and occupancy of a motor vehicle on public property or parking lots held out for public use for more than four (4) hours in the same area over the course of two (2) calendar days is prohibited.

31.37 MENACING OR AGGRESSIVE PANHANDLING PROHIBITED.

A. Purpose. The purpose of this ordinance is to ensure unimpeded pedestrian traffic flow, to maintain and protect the physical safety and well-being of pedestrians and to otherwise foster a safe and harassment-free climate in public places in the Village of Allouez.

B. Definitions. As used in this section:

1. "Public place" or "Place open to the public" 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 doorways or entrances in buildings or dwellings and the grounds enclosing them;
2. A conversation or gesture or both shall be construed as "threatening" if a reasonably prudent individual would perceive such conduct as intending to result in the procurement of money or goods by threat or coercion.
3. Behavior shall be construed as "aggressive" or "intimidating" if a reasonably prudent individual could be deterred from passing through or remaining in or near any thoroughfare, or place open to the public because of fear, concern or apprehension.

C. In or near any thoroughfare or place open to the public, no person either individually or as part of a group shall procure or attempt to procure a handout from another in a manner under circumstances manifesting an express or implied threat or coercion.

Among the circumstances which may be considered in determining whether such purpose or behavior is manifested are the following: that such person is a known panhandler; that such person repeatedly and in a threatening fashion, beckons to, stops, or attempts to stop passer(s)-by; that such person engages pass(s)-by in threatening conversation; or that such person utilizes threatening bodily gestures. The violator's conduct must be such as to demonstrate a specific intent to induce, solicit, or procure from another goods or money by threat or coercion. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such person 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.

D. In or near any thoroughfare or place open to the public, no person either individually or as part of a group shall procure or attempt to procure a handout from another in an aggressive or intimidating manner. Among the circumstances which may be considered in determining whether such purpose or behavior is manifested are the following: that such person is a known panhandler; that such person continues to beckon to, accost or follow or ask passer(s)-by for a handout after the passer(s)-by has failed to respond or has told the person "no"; that such person engages in a course of conduct or commits any act which harasses or intimidates the passer(s)-by;

or that such person utilizes or attempts to utilize bodily gestures or physical contact to impede the path of any passer(s)-by, including but not limited to unwanted touching or blocking the path or impeding the free movement of the passer(s)-by. The violator's conduct must be such as to demonstrate a specific intent to induce, solicit, or procure from another goods or money by aggressive or intimidating behavior. No arrest shall be made for a violation of this subsection unless the arresting officer first affords such person 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.

- E. Penalty. Any person violating this section shall be subject to a forfeiture of not less than \$500 nor more than \$1,000, notwithstanding any provision of this chapter setting a different penalty.
- F. Severability. The provisions of this section are severable. If any provision of the section is held to be invalid or unconstitutional or if the application of any provision of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provision or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Village Board that this section would have been adopted had any invalid or unconstitutional provision or applications not been included herein.

31.38 PENALTIES.

Any person convicted of violating the provisions of Sections 31.23 through 31.37 shall be subject to the penalties imposed by Section 1.05 of the Allouez Village Code.

31.39 SEXUAL OFFENDER RESTRICTIONS - LOITERING.

A. FINDINGS AND INTENT

1. This ordinance is a regulatory measure aimed at protecting the health and safety of children in the Village of Allouez from the risk that sexual offenders convicted of an offense against a child may re-offend in locations close to where children congregate. Given the high rate of recidivism for sexual offenders, and that reducing opportunity and temptation is important to minimizing the risk of re-offense, there is a need to protect children where they congregate or play in public places. Therefore, the Village finds and declares that sexual offenders are a serious threat to the public safety of children if regulatory measures are not in place that prohibit their loitering in specified areas designated as places children commonly congregate. The Village of Allouez finds and declares that in addition to schools and daycare centers, children congregate or play at child-oriented facilities, such as parks and playgrounds.

2. It is not the intent of this ordinance 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 children of the Village by prohibiting convicted sexual offenders from loitering in specified areas around locations where children regularly congregate in concentrated numbers. It is the further intent of this ordinance to recognize that convicted sexual offenders must reenter the community, and the Village of Allouez hereby accepts that it has a responsibility to convicted sexual offenders and the surrounding area municipalities to ensure that, in addition to promoting regulatory measures aimed at protecting children, its regulatory measures are not aimed at prohibiting convicted sexual offenders from being part of this society.

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 age 16 or younger for purposes of this ordinance.
2. Designated Offender means any person who is required to register under Wis. Stat. 301.45 and/or is under court ordered supervision by the Wisconsin Department of Corrections for any sexual offense against a child, unless the person is under the age eighteen at the time of the offense and the offender was not tried and convicted of the offense as an adult.
3. Loitering means, whether in a group, crowd, or as an individual, to stand idly about, loaf, prowl, congregate, wander, stand, linger aimlessly, proceed slowly or with many stops, to delay or dawdle, for the purpose of interacting or attempting to interact with children (excepting children or relatives of the designated offender), taking or attempting to take photographs of children (excepting children or relatives of the designated offender), or engaging in activities that would be of interest to children (excepting children or relatives of the designated offender) or when otherwise serves no legitimate purpose.
4. Loiter Free Zones:
  - a. The following areas including a surrounding fifty (50) foot radius where children congregate are designated by the Village to be loiter free zones including but not limited to:
    - (1) schools;
    - (2) a public park, parkway, parkland, park facility;
    - (3) a public playground;
    - (4) a public recreational trail;
    - (5) licensed day care centers;
    - (6) or any other place designated by the Village as a place where children are known to congregate;

- b. Loiter Free Zone Maps: an official map, maintained by the Village, showing Loiter Free Zones designated in Purple (the "Loiter Free Zone Map"). The Village shall update the Loiter Free Zone Map at least annually to reflect any changes in the location of Loiter Free Zones. Loiter Free Zone Maps will be available at the Village's office and on the Village's official web site.

C. PROHIBITED LOCATION AND/OR ACTS

- 1. It is unlawful for a Designated offender to loiter within a Loiter Free Zone.
- 2. Holiday Prohibition: It is unlawful for any Designated Offender to participate in a holiday event involving children under 16 years of age, such as distributing candy or other items to children on Halloween, wearing a Santa Claus costume on or preceding Christmas or wearing an Easter Bunny costume on or preceding Easter. Holiday events in which the Designated Offender is the parent or guardian of the children involved, and no non-familial children are present, are exempt from this paragraph.

D. PENALTIES

A person who violates this ordinance shall be punished by a forfeiture not exceeding \$2,000.00, together with the actual costs of prosecution, including attorney fees, if necessary.

E. SEVERABILITY

The provisions of this ordinance shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected.

31.40 SMOKING REGULATIONS. Section 101.123, Wis. Stats., as amended from time to time, is adopted by reference and incorporated as though fully set forth herein, except for the definition of "enclosed place".

101.123 Smoking prohibited.

(1) Definitions. In this section:

- (ab) "Assisted living facility" means a community-based residential facility, as defined in s. 50.01 (1g), a residential care apartment complex, as defined in s. 50.01 (1d), or an adult family home, as defined in s. 50.01 (1) (b).
- (abm) "Child care center" has the meaning given in s. 49.136 (1) (ad).
- (ac) "Correctional facility" means any of the following:
  - 1. A state prison, as defined or named in s. 302.01, except a correctional institution under s. 301.046 (1) or 301.048 (4)
    - (b) if the institution is the prisoner's place of residence and no one is

2. A juvenile detention facility, as defined in s. 938.02 (10r), or a juvenile correctional facility, as defined in s. 938.02 (10p), except a juvenile correctional facility authorized under s. 938.533 (3) (b), 938.538 (4) (b), or 938.539 (5) if the facility is a private residence in which the juvenile is placed and no one is employed there to ensure that the juvenile remains in custody.
  3. A jail, as defined in s. 165.85 (2) (bg), a Huber facility under s. 303.09, a work camp under s. 303.10, a reforestation camp under s. 303.07, or a lockup facility under s. 302.30.
- (ae) "Educational facility" means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.
- (aj) Notwithstanding s. 101.01 (5), "employment" means any trade, occupation, or process of manufacture or any method of carrying on such trade, occupation, or process of manufacture in which any person may be engaged.
- (ak) "Enclosed place" means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether open or closed, covering more than 50 percent of the combined surface area of the vertical planes constituting the perimeter of the area. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent. A 0.011 gauge screen with an 18 by 16 mesh count is not a wall.
- (ar) "Immediate vicinity of the state capitol" means the area directly adjacent to the state capitol building, as determined by rule of the department of administration. "Immediate vicinity of the state capitol" does not include any location that is more than six feet from the state capitol building.
- (b) "Inpatient health care facility" means a hospital, as defined in s. 50.33 (2), a county home established under s. 49.70, a county infirmary established under s. 49.72, a nursing home, as defined in s. 50.01 (3), a hospice, as defined in s. 50.90 (1), a Wisconsin veterans home under s. 45.50, or a treatment facility.
- (bn) "Lodging establishment" means any of the following:
1. A bed and breakfast establishment, as defined in s. 254.61 (1).
  2. A hotel, as defined in s. 254.61 (3).
  3. A tourist rooming house, as defined in s. 254.61 (6).
- (d) "Person in charge" means the person, or his or her agent, who ultimately controls, governs or directs the activities aboard a public conveyance or at a location where smoking is prohibited or regulated under this section.
- (dj) Notwithstanding s. 101.01 (11), "place of employment" means any enclosed place that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, or an employee cafeteria.
- (dn) "Private club" means a facility used by an organization that limits its membership and is organized for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose.
- (e) "Public conveyance" means a mass transit vehicle as defined in s. 340.01 (28m), a school bus as defined in s. 340.01 (56), or any other

device by which persons are transported, for hire, on a highway or by rail, water, air, or guidewire within this state, but does not include such a device while providing transportation in interstate commerce.

- (eg) "Public place" means any enclosed place that is open to the public, regardless of whether a fee is charged or a place to which the public has lawful access or may be invited.
  - (f) "Restaurant" means an establishment as defined in s. 254.61 (5).
  - (g) "Retail establishment" means any store or shop in which retail sales is the principal business conducted.
  - (gg) "Retail tobacco store" means a retail establishment that does not have a "Class B" intoxicating liquor license or a Class "B" fermented malt beverages license and that generates 75 percent or more of its gross annual income from the retail sale of tobacco products and accessories.
  - (h) "Smoking" means burning or holding, or inhaling or exhaling smoke from, any of the following items containing tobacco:
    - 1. A lighted cigar.
    - 2. A lighted cigarette.
    - 3. A lighted pipe.
    - 4. Any other lighted smoking equipment.
  - (hm) "Sports arena" means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.
  - (i) "State institution" means a mental health institute, as defined in s. 51.01 (12), a center for the developmentally disabled, as defined in s. 51.01 (3), or a secure mental health facility at which persons are committed under s. 980.06.
  - (id) "Substantial wall" means a wall with an opening that may be used to allow air in from the outside that is less than 25 percent of the wall's surface area.
  - (im) "Tavern" means an establishment, other than a restaurant, that holds a "Class B" intoxicating liquor license or Class "B" fermented malt beverages license.
  - (in) "Tobacco bar" means a tavern that generates 15 percent or more of its annual gross income from the sale on the tavern premises, other than from a vending machine, of cigars and tobacco for pipes.
  - (io) "Tobacco product" means any form of tobacco prepared in a manner suitable for smoking but not including a cigarette.
  - (ip) "Treatment facility" means a publicly or privately operated inpatient facility that provides treatment of alcoholic, drug dependent, mentally ill, or developmentally disabled persons.
  - (j) "Type 1 juvenile correctional facility" has the meaning given in s. 938.02 (19).
- (2) Prohibition against smoking.
- (a) Except as provided in sub. (3), no person may smoke in any of the following enclosed places:
    - 1g. The state capitol.
    - 1m. Residence halls or dormitories owned or operated by a college or university.
    - 1r. Child care centers.
    - 2. Educational facilities.
    - 3. Inpatient health care facilities.

- 4. Theaters.
  - 5m. Correctional facilities.
  - 5t. State institutions.
  - 7. Restaurants.
  - 7m. Taverns.
  - 7r. Private clubs.
  - 8. Retail establishments.
  - 8d. Common areas of multiple-unit residential properties.
  - 8g. Lodging establishments.
  - 8r. State, county, city, village, or town buildings.
  - 9. All enclosed places, other than those listed in subds. 1g. to 8r. that are places of employment or that are public places.
- (d) No person may smoke at any of the following outdoor locations:
- 1. In the immediate vicinity of the state capitol.
  - 2. Anywhere on the premises of a child care center when children who are receiving child care services are present.
  - 3. Anywhere on the grounds of a Type 1 juvenile correctional facility.
  - 4. A location that is 25 feet or less from a residence hall or dormitory that is owned or operated by the Board of Regents of the University of Wisconsin System.
- (e) No person may smoke in any of the following:
- 1. A sports arena.
  - 2. A bus shelter.
  - 3. A public conveyance.
- (2m) Responsibility of persons in charge.
- (a) No person in charge may allow any person to smoke in violation of sub. (2) at a location that is under the control or direction of the person in charge.
- (b) A person in charge may not provide matches, ashtrays, or other equipment for smoking at the location where smoking is prohibited.
- (c) A person in charge shall make reasonable efforts to prohibit persons from smoking at a location where smoking is prohibited by doing all of the following:
- 1. Posting signs setting forth the prohibition and providing other appropriate notification and information concerning the prohibition.
  - 2. Refusing to serve a person, if the person is smoking in a restaurant, tavern, or private club.
  - 3. Asking a person who is smoking to refrain from smoking and, if the person refuses to do so, asking the person to leave the location.
- (d) If a person refuses to leave a location after being requested to do so as provided in par. (c) 3., the person in charge shall immediately notify an appropriate law enforcement agency of the violation.
- (e) A person in charge may take measures in addition to those listed in pars. (b) and (c) to prevent persons from being exposed to others who are smoking or to further ensure compliance with this section.
- (3) Exceptions. The prohibition against smoking in sub. (2) (a) does not apply to the following:
- (h) A private residence.
  - (i) A room used by only one person in an assisted living facility as his or her residence.

- (j) A room in an assisted living facility in which 2 or more persons reside if every person who lives in that room smokes and each of those persons has made a written request to the person in charge of the assisted living facility to be placed in a room where smoking is allowed.
- (l) A retail tobacco store that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
- (m) A tobacco bar that is in existence on June 3, 2009, and in which only the smoking of cigars and pipes is allowed.
- (4m) Local authority. This section does not limit the authority of any county, city, village or town to enact ordinances or of any school district to adopt policies that, complying with the purpose of this section, protect the health and comfort of the public. If a county, city, village, or town enacts an ordinance, or if a school district adopts a policy, regulating or prohibiting outside smoking in certain areas as authorized under this subsection, the ordinance may apply only to public property under the jurisdiction of the county, city, village, town, or school district. Such ordinance shall provide that the person in charge of a restaurant, tavern, private club, or retail establishment located in an area subject to the ordinance may designate an outside area that is a reasonable distance from any entrance to the restaurant, tavern, private club, or retail establishment where customers, employees, or persons associated with the restaurant, tavern, private club, or retail establishment may smoke. Such ordinance may not define the term "reasonable distance" or set any specified measured distance as being a "reasonable distance."
- (6) Uniform signs. The department shall, by rule, specify uniform dimensions and other characteristics of the signs required under sub. (2m). These rules may not require the use of signs that are more expensive than is necessary to accomplish their purpose.
- (7) Signs for state agencies. The department shall arrange with the department of administration to have signs prepared and made available to state agencies for use in state facilities that set forth the prohibition against smoking.
- (8) Penalties.
  - (a) Any person who violates sub. (2) shall be subject to a forfeiture of not less than \$100 nor more than \$250 for each violation.
  - (d) Except as provided in par. (dm) or (em), any person in charge who violates sub. (2m) (b) to (d) shall be subject to a forfeiture of \$100 for each violation.
  - (dm) For violations subject to the forfeiture under par. (d), if the person in charge has not previously received a warning notice for a violation of sub. (2m) (b) to (d), the law enforcement officer shall issue the person in charge a warning notice and may not issue a citation.
  - (em) No person in charge may be required under par. (d) to forfeit more than \$100 in total for all violations of sub. (2m) (b) to (d) occurring on a single day.
- (9) Injunction. Notwithstanding s. 165.60, state or local officials or any affected party may institute an action in any court with jurisdiction to enjoin repeated violations of this section.

31.42 SEXUAL OFFENDER RESIDENCY RESTRICTIONS

A. FINDINGS AND INTENT. The village Board finds that repeat sex offenders, sex offenders who use physical violence, and sex offenders who prey on children are sex predators who present an extreme threat to the public safety. Sex offenders are extremely likely to use physical violence and to repeat their offenses; and most sex 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 sex offender victimization to society, while incalculable, clearly exorbitant. It is the intent of this section not to impose a criminal penalty but to serve the village's compelling interest to promote, protect, and improve the health, safety and welfare of the citizens of the village by creating areas around locations where children regularly congregate in concentrated numbers wherein certain sex offenders and sex predators are prohibited from establishing temporary or permanent residence.

B. DEFINITIONS. For the purposes of this section:

- (1) "Child" means a person under the age of 16 years.
- (2) "Designated offender" means any person who is required to register under s. 301.45, Wis. Stats., for any offense against a child or any person who is required to register under s. 301-45, Wis. Stats., and who has been designated a Special Bulletin Notification (SBN) sex offender pursuant to s. 301.46(2) and (2m), Wis. Stats.
- (3) "Permanent residence" means a place where the person abides, lodges, or resides for 14 or more consecutive days.
- (4) "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 4 or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

C. RESIDENCY RESTRICTION.

- (1) Restriction. In absence of a court order specifically exempting a designated offender from the residency restriction in this subsection, a designated offender shall not establish a permanent residence or temporary residence within 2,000 feet of any school, licensed day care center, park, recreational trail, playground, parkway or any other place designated by the village as a place where children are known to congregate.
- (2) Measurement of Distance.
  - (a) The distance shall be measured by following a straight line from the outer property line of the

permanent or temporary residence to the nearest outer property line of a school, licensed day care center, park, recreational trail, playground or any other place designated by the village as a place where children are known to congregate.

- (b) The Village clerk shall maintain an official map showing prohibited locations. The village clerk shall update the map at least annually to reflect any changes in the prohibited locations. These prohibited locations shall be designated on the map as child safety zones.

D. RESIDENCY RESTRICTION EXCEPTIONS. A designated offender residing within a prohibited area as specified in sub. 3. Does not commit a violation of this section if any of the following applies.

- (1) The person established a permanent residence or temporary residence and reported and registered the residence as provided in s. 301.45 Wis. Stats., before the effective day of this section.
- (2) The person was under 17 years of age and is not required to register under s. 301.45 or 301.46, Wis. Stats.
- (3) The school, licensed day care center, park, recreational trail, playground, parkway or any other place designated by the village as a place where children are known to congregate within 2,000 feet of the person's permanent or temporary residence was opened after the person established the permanent or temporary residence and reported and registered the residence as provided in s. 301.45, Wis. Stats.
- (4) The residence is also the primary residence of the person's spouse, parents, grandparents, siblings or children provided that the spouse, parents, grandparents, siblings or children established the residence at least 2 years before the designated offender established residence at the location.

E. PENALTIES. If a person violates sub. C. by establishing a residence or occupying a residential premises within 2,000 feet of those premises as described herein, without any exception(s) as also set forth above, the Village Attorney, upon referral from the Chief of Police or his/her designee and the written determination by the Chief of Police or his/her designee that upon all of the facts, circumstances and the purposes of this ordinance such residence occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health or safety of another or others, shall bring an action in the name of the Village in the Circuit Court for Brown County to permanent enjoin such residency as a public nuisance. In addition to the aforesaid

injunctive relief, such person shall be subject to a forfeiture of not less than \$1,000 nor more than \$2,500 for each violation and in default of payment may be imprisoned as provided by law. Each day a violation continues shall constitute a separate offense. In addition, the Village may undertake all other legal and equitable remedies to prevent or remove a violation of this ordinance.

- F. SEVERABILITY. The provisions of this ordinance shall be deemed severable and it is expressly declared that the Village Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance is held invalid, the remainder of the ordinance shall not be affected.