

## Chapter 54

### **OFFENSES AND MISCELLANEOUS PROVISIONS\***

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## ARTICLE I. IN GENERAL

### Sec. 54.100. Offenses against property; state statutes adopted.

The following statutes are adopted by reference and incorporated in this section, except for the penalty provision, which shall be governed by section 1.112.

Wis. Stats. § 940.19(1)	(Battery)
Wis. Stats. § 940.291	(Law enforcement officer; failure to render aid)
Wis. Stats. § 940.34	(Duty to aid victim or report crime)
Wis. Stats. § 940.42	(Intimidation of witnesses; misdemeanor)
Wis. Stats. § 941.01	(Negligent operation of a vehicle)
Wis. Stats. § 941.10	(Negligent handling of burning material)
Wis. Stats. § 941.12(2), (3)	(Interfering with firefighting)
Wis. Stats. § 941.23	(Carrying concealed weapon)
Wis. Stats. § 941.235	(Carrying firearm in public buildings)
Wis. Stats. § 941.237	(Carrying firearm where alcohol beverages may be sold and consumed)
Wis. Stats. § 941.24	(Possession of switchblade knife)
Wis. Stats. § 941.2965	(Restrictions on use of facsimile firearms)
Wis. Stats. § 941.297	(Sale or distribution of imitation firearms)
Wis. Stats. § 941.36	(Fraudulent tapping of electric wires or gas or water meters or pipes)
Wis. Stats. § 943.01(1), (3), and (4)	(Criminal damage to property)
Wis. Stats. § 943.017(1)	(Graffiti)
Wis. Stats. § 943.07	(Criminal damage to railroads)
Wis. Stats. § 943.11	(Entry into locked vehicle)
Wis. Stats. § 943.125	(Entry into locked coinbox)
Wis. Stats. § 943.13	(Trespass to land)
Wis. Stats. § 943.14	(Criminal trespass to dwellings)
Wis. Stats. § 943.15	(Entry into a construction site or into a locked building, dwelling or room)
Wis. Stats. § 943.20(1), (2)	(Theft, not exceeding \$1,000.00)
Wis. Stats. § 943.21(1), (2)	(Fraud on hotel or restaurant keeper, \$1,000.00 or less)
Wis. Stats. § 943.215	(Absconding without paying rent)
Wis. Stats. § 943.22	(Use of cheating tokens)
Wis. Stats. § 943.225	(Refusal to pay for bus ride)
Wis. Stats. § 943.23(4m)	(Operating a vehicle without owner's consent)
Wis. Stats. § 943.24	(Issuance of worthless check, not over \$1,000.00)
Wis. Stats. § 943.26	(Removing or damaging encumbered property)
Wis. Stats. § 943.34	(Receiving stolen property, not exceeding \$1,000.00)

Wis. Stats. § 943.37	(Alteration of property identification marks)
Wis. Stats. § 943.41(2), (3)(a)-- (d), (4)(b)	(Financial transaction card crimes)
Wis. Stats. § 943.45(1), (2), (3)(a), (b)	(Obtaining telecommunication service by fraud)
Wis. Stats. § 943.455(1), (2), (4)(a), (b)	(Theft of cell phone service)
Wis. Stats. § 943.46(1), (2), (4)(a), (b)	(Theft of CATV service)
Wis. Stats. § 943.50(1), (1m), (2), (3), (3m)	(Retail theft, not over \$1,000.00)
Wis. Stats. § 943.55	(Removal of shopping cart)
Wis. Stats. § 943.61(1), (2), (3), (4)	(Theft of library material, not over \$1,000.00)
Wis. Stats. § 943.70(1), (2)(a), (b)(1)	(Computer crimes)
Wis. Stats. § 948.63	(Receiving property from children)
Wis. Stats. ch. 961	(Uniform Controlled Substances Act)

(Ord. of 6-9-1986, § 1; Ord. of 4-20-1998)

#### **Sec. 54.101. Restrictions on use of weapons.**

(a) *Shooting prohibited.* No person except a sheriff, police officer or deputy shall fire or discharge any firearm, rifle, spring gun, air gun, or BB gun or any other similar device of any description within the village except in the areas designated AG agriculture and RR rural residential by section 94.175 and section 94.176; and no such person shall have any firearms, rifle, spring gun, air gun, BB gun or any other similar device of any description in his possession or under his control in prohibited areas unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container; however, this section shall not prevent the maintenance and use of a duly supervised rifle or pistol range or shooting gallery authorized by the board. Chapter 94 shall establish the permitted areas, which shall be shown on a designated map, updated as population and traffic patterns change and develop.

(b) *Restrictions in permitted areas.* No person except a sheriff, police officer or deputy shall fire or discharge any firearm, rifle, spring gun, air gun, BB gun or any other similar device of any description within those areas of the village where such use is permitted under subsection (a) unless such person shall be more than 500 feet away from all buildings and other structures and at least 200 feet from the center of all roadways.

(c) *Permits.* The chief of police may issue written permits to owners or occupants of private premises to hunt or shoot on such premises if he finds such privileges necessary for the protection of life or property and subject to such safeguards as he may impose for the safety of the lives and property of other persons within the village.

(d) *Throwing or shooting of arrows, stones or other missiles prohibited.* No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile by hand or by any other means at any other person or at, in or into any building, vehicle, street, sidewalk, alley, highway, park, playground or other public place within the village. This subsection shall not apply to archery ranges within the village that are under the supervision of the board or any committee of the board or of the county park commissioner.

(e) *Penalties.* Any person who shall violate any provisions of this section shall be subject to section 1.112. In addition to any penalties so imposed, any person who shall do physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property; and the parents of any unemancipated minor who shall violate any provision of this section may also be held liable for the cost of replacing or repairing such damaged or destroyed public property in accordance with Wis. Stats. § 895.035.

(Code 1982, §§ 4.015, 4.16; Ord. of 10-19-1992, § 1)

#### **Sec. 54.102. Disorderly conduct with a motor vehicle.**

No person shall within the village, on public or private property, by or through the use of a motor vehicle, motorcycle, snowmobile or minibike, under circumstances that tend to cause or provoke a disturbance or annoy one or more persons, engage in violent, abusive, unreasonably loud or otherwise disorderly conduct, including but not limited to unnecessary or deliberate or intentional spinning of wheels, squealing of tires, revving of the engine, blowing the horn, causing the engine to backfire, or cause the vehicle, while commencing to move or in motion, to raise one or more of its wheels off the ground. Such conduct is hereby declared to be both unlawful and a public nuisance, and all violators of this section shall be subject to a penalty as provided in section 1.112.

(Code 1982, § 4.06)

**Cross References--**Traffic and vehicles, ch. 82.

#### **Sec. 54.102.1. Disorderly conduct prohibited.**

- (1) *Types of conduct prohibited.* No person shall, in a public or private place, 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; nor shall any person, with intent to annoy another, make a telephone call, whether or not conversation ensues.

- (2) *Fighting prohibited.* No person shall within the Village of Weston, intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(Ord. of 6-7-99, § 1)

**Sec. 54.102.2. Resisting arrest, refusing to assist an officer, impersonating an officer.**

- (1) *Resisting an officer.* No person shall unlawfully, knowingly resist or obstruct an officer while such officer is doing any act in his/her official capacity and with lawful authority.
- (2) *Aiding an officer.* No person shall without reasonable excuse, refuse or fail, upon command, to aid any person known to him/her to be a police officer.
- (3) *Impersonating police officer.* No person shall impersonate a policeman or peace officer within the Village of Weston.
- (4) *Definitions.* In this section:
  - (a) Obstructs includes without limitation, knowingly giving false information to the officer or knowingly placing physical evidence with intent to mislead the officer in the performance of his or her duty, including the service of any summons or civil process. Said definition also includes without limitation the interference with any police officer or member of the police department in the discharge of his/her duty, or the hindering or preventing of a police officer or member of the police department in the discharge of his/her duties as such officer or member, or any act which would in

any manner assist a person in the custody of any police officer or member of the police department to escape or attempt to escape from such custody or any attempt to rescue in custody.

(b) Officer means a peace officer or other public officer or public employee having the authority by virtue of the officer's or employee's office or employment to take another into custody.

(Ord. of 6-7-99, § 2)

### **Sec. 54.102.3. Reckless use of weapons.**

No person shall endanger the safety of another or of himself or herself in the Village of Weston by reckless conduct in the operation or handling of a firearm, whether loaded or unloaded, air gun, knife or bow and arrow; nor shall any person operate or go armed with a firearm, whether loaded or unloaded, in the Village of Weston while he/she is under the influence of an intoxicant; nor shall any person intentionally point a firearm, whether loaded or unloaded, at or toward another within the village.

(Ord. of 6-7-99, § 3)

### **Sec. 54.102.4. Signs and bills on public property.**

No person, firm or corporation shall put up, erect, fasten, post, paint or maintain any sign, picture, poster or advertisement of any description upon any curb, sidewalk, fence, board, barrel, box, case, railing, post, barricade, material, structure or building of any kind located upon any street, alley, public way, public ground or public highway.

(Ord. of 6-7-99, § 4)

### **Sec. 54.102.5. Public parks, closing hours.**

It should be unlawful for any person, except registered campers, in or en route to designated campgrounds, to enter or to be in any public park in the Village of Weston, between the hours of 11:00 p.m. and the following 6:00 a.m., nor shall any person during the aforesaid hours, park, stop, or leave standing, whether attended or unattended, any vehicle or watercraft in any such public park in the Village of Weston.

(Ord. of 6-7-99, § 5)

**Sec. 54.103. Drunkenness.**

No person shall within the village be habitually drunk or intoxicated so as to disturb the good order and quiet of the village or be found in any place within the village in such a state of intoxication that he is unable to care for his own safety or for the safety of others.

(Code 1982, § 4.07)

**Cross References--**Alcohol beverages, ch. 6.

**Sec. 54.104. Indecent exposure.**

Any person who shall appear in any public place in the state of nudity or in any indecent or lewd dress or shall make any indecent exposure of his person shall pay a penalty as prescribed in section 1.112.

(Code 1982, § 4.09)

**Sec. 54.104.1. Misuse of 911 emergency services number.**

(a) *Definitions.* In this section "911 emergency telephone system" means a telecommunications system which connects a person dialing the digits "911" to a public safety answering point and/or which has the ability to automatically identify either the address or the telephone number of the caller at a central location when a caller dials the digits 911.

(b) *Regulated use.*

- (1) No person may use the 911 emergency telephone system except in emergencies such as transmitting requests for law enforcement, fire fighting and emergency medical and ambulance services to the public safety agencies providing such services.
- (2) No person may intentionally dial the telephone number 911 to report an emergency knowing that the fact or situation which he or she reports does not exist.

(c) *Penalties.* Any person who shall violate any of the provisions of this section shall, upon conviction thereof, be subject to a forfeiture of not less than \$30.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such



forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and all costs are paid, but not exceeding 90 days.

(Ord. of 11-20-2000(1), § 1(54.115))

**Editors Note--**Section 1 of an ordinance adopted Nov. 20, 2000, added provisions designated as § 54.115. For better categorizing and indexing, said provisions have been redesignated as § 54.104.1, at the discretion of the editor. The original section designation has been retained in the history note at the end of the section.

## ARTICLE II. MINORS

### Sec. 54.105. Curfew.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Curfew hours* means:

- (1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday until 6:00 a.m. of the following day; and
- (2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

*Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

*Establishment* means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

*Guardian* means:

- (1) A person who, under court order, is the guardian of the person of a minor; or
- (2) A public or private agency with whom a minor has been placed by a court.

*Minor* means any person prosecutable per Wis. Stats. § 48.02(2).

*Operator* means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation LLC and LLP.

*Parent* means a person who is:

- (1) A natural parent, adoptive parent or stepparent of another person; or
- (2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

*Public place* means any place to which the public or a substantial group of the public has access, including but not limited to streets, highways and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

*Remain* means to:

- (1) Linger or stay; or
- (2) Fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

*Serious bodily injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(b) *Offenses.*

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

(c) *Defenses.*

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

(d) *Enforcement.* Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (c) is present and complies with Wis. Stats. § 48.19(1)(d)(8).

(Code 1982, § 4.125)

**Sec. 54.106. Harboring, aiding, assisting and abetting minor runaways.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Runaway* means an unemancipated person under the age of 18 years who has been reported as a missing person runaway to any law enforcement agency and whose whereabouts is or was unknown to the parents, guardian or legal custodian.

(b) *Harboring runaways prohibited.* It shall be unlawful for any person to knowingly harbor, allow, board or otherwise permit any runaway in his residence or business or other property under his control where such person knows or should have known the minor to be a runaway from his parent, guardian or legal custodian.

(c) *Assisting runaways prohibited.* It shall be unlawful for any person to knowingly assist, aid or abet a runaway to escape apprehension or flee from his parents, guardian, legal custodian or public officials. This includes but is not limited to the following acts:

- (1) Providing transportation to the runaway;
- (2) Providing money, clothing or any other useful instrument to the runaway that would aid the runaway in escape;
- (3) Obstructing by providing false or untrue information regarding the location or plan of the runaway;
- (4) Refusing to provide information to law enforcement officers when questioned about the runaway, which information was known to them at the time and would assist in the apprehension of the runaway; or

(5) Assisting, aiding or abetting the runaway in any other way for the purpose of hindering law enforcement officers or the parents, guardian or legal custodian of the runaway from learning the whereabouts of the child.

(d) *Exception.* Subsection (a) of this section does not apply to persons who harbor runaways by virtue of a placement by the juvenile court intake staff or any court.

(e) *Penalty.*

(1) Any person violating this section shall upon conviction be subject to section 1.112.

(2) Any person under the age of 18 who violates any of the provisions of this section shall upon conviction be subject to the penalties as provided in Wis. Stats. § 48.343(2).

(Ord. of 10-19-1989, § 1)

### **Sec. 54.106.1. Truancy.**

(a) *Definitions.* For the purposes of this section:

(1) *Acceptable excuse.* Shall mean an acceptable excuse as defined in Wis. Stats. §§ 118.15, 118.16(4).

(2) *Dropout.* Shall mean a pupil who ceased to attend school, does not attend a public or private school, technical college or home-based private educational system on a full time basis, has not graduated from high school and does not have an acceptable excuse under Wis. Stats. § 118.15(1)(b)--(d), (3) and who is at least 16 years of age but less than 18 years of age.

(3) *Habitual truant.* Shall mean a pupil who is absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.

- (4) *Truant*. Shall mean a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.
- (5) *Truancy*. [Shall] mean any absence of part or all of one 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 the compulsory school attendance requirements set forth in Wis. Stats. § 118.15.
- (6) *Attendance at school*. No parent, guardian or other person 18 years or older shall knowingly allow a child between the ages of six and less than 18, who is under his/her control to absent himself/herself from attendance at school without an "acceptable excuse."
- (7) *Contributing to truancy*. No person 17 or older, by an act of omission, shall knowingly encourage or contribute to the truancy or habitual truancy of a child. An act or omission contributes to the truancy or habitual truancy of a child, whether or not the child is so adjudged, if the natural and probable consequences of that act of omission would be to cause the child to be truant.
- (8) *Allowing truancy*. Any parent, guardian or other adult who knowingly allows a child to absent him/herself from attendance at school without an "acceptable excuse" shall be in violation of this section.
- (b) *Penalties*.
- (1) *Truant*. Any person who is deemed to be a "truant" may be subject to one or more of the following dispositions by the court.
- a. An order for the person to attend school.

b. A forfeiture of not more than \$50.00 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, subject to Wis. Stats. § 983.37, and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the truant, the parents or guardian of the truant of both.

(2) *Habitual truant.* Any person who is deemed to be an "habitual truant" may be subject to one or more of the following dispositions by court:

a. The suspension of the habitual truant's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of the suspended license and forward it to the department of transportation of the State of Wisconsin, together with a notice stating the reason for and the duration of the suspension.

b. An order for the habitual truant to participate in counseling, or a supervised work program, or other community service work as described in Wis. Stats. § 938.34(5)(g). The cost of any such counseling, supervised work program or community service work may be assessed against the habitual truant, the parents or guardian of the habitual truant, or both.

c. An order for the habitual truant to remain at home except during the hours in which the habitual truant is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a habitual truant to leave his/her home if the habitual truant is accompanied by a parent or guardian.

- d. An order for the habitual truant to attend an education program as described in Wis. Stats. § 938.342(d).
  - e. An order for the department of workforce development to revoke, under Wis. Stats. §§ 103.70, 103.72, authorizing the employment of the habitual truant.
  - f. An order for the habitual truant to be placed in a teen court program as described in Wis. Stats. § 938.342(1)(g), (f).
  - g. An order for the habitual truant to attend school.
  - h. A forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the habitual truant, the parents or guardians of the habitual truant or both.
  - i. Any other reasonable conditions consistent with this section, including curfew, restrictions as to going or to remaining on specified premises and/or restrictions on associating with other children and/or adults.
  - j. An order placing the habitual truant under formal or informal supervision, as described in Wis. Stats. § 983.34(2), for up to one year.
  - k. An order for the habitual truant's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the habitual truant or both.
- (3) *Dropout.* Any person who is deemed to be a "dropout" may be subject to the court suspending the person's operating privileges until the person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice stating the reason for and the duration of the suspension.



- a. The municipal court may order the DC Everest School District to provide to the court
  - a list of all persons who are known to the school district to be dropouts and who reside within the jurisdiction of the Schofield-Weston Municipal Court.

- (4) *Allowing truancy.* Any parent, guardian or other adult who knowingly allows a child to absent him/herself from attendance at school without an "acceptable excuse" may be subject to a forfeiture of not less than \$50.00 plus costs nor more than \$100.00 plus costs for the first offense; and not less than \$100.00 plus costs nor more than \$250.00 plus costs for any subsequent offense within a one year period.

(Ord. of 11-20-2000(2), § 1(54.114))

**Editors Note--**Section 1 of an ordinance adopted Nov. 11, 2000, added provisions designated as § 54.114. For better categorizing and indexing, said provisions have been redesignated as § 54.106.1, at the discretion of the editor. The original section designation has been retained in the history note at the end of the section.

### **ARTICLE III. TOBACCO AND SMOKING\***

#### **Sec. 54.107. General regulations.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*School property* means any property owned and/or titled in the D.C. Everest School District or property under the direct control and authority of the D.C. Everest School District.

*Smoking* means carrying a lighted cigar, cigarette, pipe or any other lighted smoking equipment.

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\* **Cross References--**Health and sanitation, ch. 38.

*Smokeless tobacco* means any tobacco used by means other than smoking.

(b) *Intent and purpose.* It is recognized that smoking of tobacco-related products is hazardous to an individual's health and may affect the health of nonsmokers when in the presence of smokers in public places. This section is adopted for the purpose of

protecting the public health, safety, comfort and general welfare of students, teachers and other people who enter upon school property in the village, especially recognizing the rights of nonsmokers who constitute a majority of the population.

(c) *Policy statement.* All buildings located upon property owned by the D.C. Everest School District or under the direct control and authority of the D.C. Everest School District are declared to be nonsmoking areas in which no smoking or the use of smokeless tobacco shall be permitted.

(d) *Smoking prohibited.* No person may smoke or use smokeless tobacco in any building located on any property presently owned and/or titled in the D.C. Everest School District located in the village or upon which the D.C. Everest School District has direct control and authority.

(e) *Penalty.* Any person who shall violate any of the provisions of this section shall upon conviction be subject to the penalties set forth in section 1.112.

(Ord. of 8-29-1988, § 1)

#### **Sec. 54.108. Safety rules for public buildings.**

(a) *Smoking prohibited.* It shall be unlawful for any person to smoke any cigar, cigarette or pipe in any theater, school, auditorium or other similar public building situated in the village excepting in any location of such building especially provided for smoking purposes.

(b) *No smoking signs to be posted.* It shall be the duty of the owner, operator, manager or person in charge of any such building to cause to be posted in a conspicuous place in the building a sign reading "NO SMOKING--VILLAGE ORDINANCE", or other similar prohibitive sign.

(Code 1982, § 4.02)

#### **Sec. 54.109. Prohibition concerning children.**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Cigarette* has the meaning given in Wis. Stats. § 139.30(1).

*Law enforcement officer* has the meaning given in Wis. Stats. § 30.50(4s).

*Tobacco products* has the meaning given in Wis. Stats. § 139.75(12).

(b) *Prohibited acts.* Except as provided in subsection (c), no child may do any of the following:

- (1) Buy or attempt to buy any cigarette or tobacco product.
- (2) Falsely represent his age for the purpose of receiving any cigarette or tobacco product.
- (3) Possess any cigarette or tobacco product.

(c) *Exception, children employed.* A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his working hours if employed by a retailer licensed under Wis. Stats. § 134.65(1).

(d) *Confiscation by law enforcement officer.* A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of subsection (b) committed in his presence.

(Ord. of 5-4-1992(1), § 1)

#### **Sec. 54.110. Restrictions on sale or gift.**

(a) *Definitions.* The definitions contained in Wis. Stats. § 134.66 are adopted by reference and made a part of this section as if fully set forth in this subsection.

(b) *Restrictions.*

- (1) No retailer may sell or give cigarettes or tobacco products to any person under the age of 18 years, except as provided in Wis. Stats. § 48.983(3). A vending machine operator is not liable under this subsection for the purchase of cigarettes or tobacco products from his vending machine by a person under the age of 18 years if the vending machine operator was unaware of the purchase.
- (2) a. A retailer shall post a sign in areas within his premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 years is unlawful under this section and under Wis.

Stats. § 48.983.

b. A vending machine operator shall attach a notice in a conspicuous place on the front of his vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 years is unlawful under this section and under Wis. Stats. § 48.983 and that the purchaser is subject to a forfeiture of not to exceed \$25.00.

(3) Notwithstanding subsection (b)(4) of this section, no retailer may place a vending machine within 500 feet of a school.

(4) a. Except as provided in subsection (b)(3) of this section, no retailer may keep a vending machine in any public place that is open to persons under the age of 18 years unless all of the following apply:

1. The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employe.
2. The vending machine is in a place where it is inaccessible to the public when the premises are closed.

b. The person who ultimately controls, governs or directs the activities within the premises where the vending machine is located shall ensure that an employe of the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open.

(c) *Defense of retailer.* Proof of all of the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 years is a defense to any prosecution for a violation of subsection (b)(1) of this section:

(1) That the purchaser falsely represented that he had attained the age of 18 years and presented an identification card.

- (2) That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18 years.
- (3) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in belief that the purchaser had attained the age of 18 years.

(d) *Penalties.*

- (1) Notwithstanding the penalty provisions contained in section 1.112, any person who commits a violation of this section shall be subject to the following penalties:
  - a. A forfeiture of not more than \$500.00 if the person has not committed a previous violation within 12 months of the violation; or
  - b. Not less than \$200.00 nor more than \$500.00 if the person has committed a previous violation within 12 months of the violation.
- (2) A court shall suspend any license or permit issued under Wis. Stats. §§ 134.65, 139.34 or 139.79 to a person for:
  - a. Not more than three days if the court finds that the person committed a violation within 12 months after committing one previous violation;
  - b. Not less than three days nor more than ten days if the court finds that the person committed the violation within 12 months after committing two other violations; or
  - c. Not less than 15 days nor more than 30 days if the court finds that the person committed the violation within 12 months after committing three or more other violations.

(Ord. of 5-4-1992(2), § 1)

**Secs. 54.111--54.119. Reserved.**

## ARTICLE IV. PROPERTY

### Sec. 54.120. Loitering.

(a) *Loitering on posted private property.* It shall be unlawful for any person to congregate, loiter, wander, stroll or stand upon any private property in the village which has been posted with a notice stating "No Loitering," "Patrons Only," or other notice indicating that the said property is not a thoroughfare for use of the general public. Such notice shall be at least eight and one-half by eleven inches in size, or of comparable area, and plainly posted, at least one to each property intended to be so posted. This section shall include loitering in or on parked motor vehicles.

(b) *Penalties.* Any person violating this section shall, upon conviction, forfeit not less than \$30.00, or not more than \$500.00.

(Ord. of 7-5-2000, § 1(54.111))

**Editors Note--**Section 1 of an ordinance adopted Nov. 11, 2000, added provisions designated as § 54.111. For better categorizing and indexing, said provisions have been redesignated as § 54.120, at the discretion of the editor. The original section designation has been retained in the history note at the end of the section.

### Sec. 54.121. Right of privacy regarding valuation of property for assessment purposes.

(a) *Adoption.* This section adopts by reference Wis. Stats. § 70.47(7)(af). Income and expense information provided by property owner to an assessor for the purposes of establishing the valuation for assessment purposes by the income method of valuation shall be confidential and not a public record open to inspection or copying under Wis. Stats. § 19.35(1).

(b) *Exceptions.*

- (1) The assessor has access to such information in the performance of his/her duties;
- (2) The board of review may review such information when needed, in its opinion, to decide upon a contested assessment.
- (3) Another person or body has the right to review such information due to the intimate

relationship to the duties of an office or as set by law.

- (4) The officer is complying with a court order.
- (5) The person providing the income and expense information has contested the assessment level at either the board of review or by filing a claim for excessive assessment under [Wis. Stats.] § 74.37, in which case the base records are open and public.

(Ord. of 8-21-2000, §§ 1, 2)

**Sec. 54.122. Disposal of abandoned property.**

(a) *Village custody of lost or abandoned property.* Property which appears to be lost or abandoned, discovered by officers or employees of the village or turned in to the chief of police by citizens shall be disposed of in conformity with the requirements of this section.

- (1) Lost or abandoned property will be examined by the chief of police or a member of the Everest Metro Police Force for identifying marks in an attempt to determine the owner. If there are no identifying marks and the owner cannot be located, the village will take custody of the property.
- (2) No village employee shall keep for his or her own use property found by such employee while in the course of employment with the village, nor shall such employee take possession of property during off-duty hours when the discovery thereof was made while on duty.
- (3) The chief of police or a member of the Everest Metro Police Department shall permit persons to claim lost property provided they present sufficient proof they are the rightful owners.

(b) *Methods of disposal.* Any personal property which has been abandoned, or remained unclaimed for a period of 30 days after the taking of possession of the property by the village or by the chief of police or member of the Everest Metropolitan Police Department shall be disposed of in the following manner:

- (1) The Village of Weston may retain and use any such unclaimed or abandoned property for village operations. The person in charge of each village department may select from a list of unclaimed or abandoned property those items of personal property that would be usable for department operations.
- (2) Personal property not retained or selected by the village or any of its department heads for use in village operations may, with the consent of the village administrator, be donated to a charitable or nonprofit organization. Any such property deemed by the village or any of its department heads to not be usable may be discarded.
- (3) All unclaimed or abandoned property not converted to village use, donated to charity or a nonprofit organization or discarded shall be disposed of in a sale open to the public either by public auction or sealed bid.

(c) *Disposal of auction or sealed bid.*

- (1) Whenever any property under this section is sold by public auction or sale by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 notice describing the property and arranging the time and place for the auction or bid submission. The property auctioned or sold by sealed bid shall be sold in as-is condition to the highest bidder. No sale or auction shall occur until the chief of police or member of the Everest Metropolitan Police Department has determined that the property has no value to any probable investigation or legal proceeding. The department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the village and the amount of the bid be forfeited to the village.



- (2) In the event the property reverts to the village for failure of the bidder to remove the property within the time specified or the property after being exposed to public sale either by auction or sealed bid is not sold, the said property may be disposed of in any manner that is deemed commercially reasonable by the village administrator.
- (3) If the property is not disposed of in a sale open to the public, the village shall maintain an inventory of such property; a record of the date and method of disposal, including the consideration received for the property, if any; and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than two years from the date of disposal of the property.

(d) *Disposal of abandoned bicycles.* The police chief or his/her authorized representative may dispose of bicycles, play vehicles or similar devices which have been abandoned or remain unclaimed for a period of 30 days either through public auction, donation to charitable or nonprofit organization or said property shall be destroyed and junked.

A bicycle auction may be conducted by the police department at any time the surplus of bicycles dictates and the 30 day waiting period for abandonment has expired.

(e) *Disposal of flammable, explosive, incendiary or unsafe substances.* The village may immediately and safely dispose of any unclaimed or abandoned flammable, explosive, incendiary or unsafe devices or substances which pose a danger to life or property if stored, transported or used after taking possession and without sale at public auction or public bid. However, the village shall attempt to return to the rightful owner substances, materials or devices which have a commercial value in the normal business usage and do not pose an immediate threat to life or property. An attempt to return the substance, material or device to the rightful owner shall be made when it appears that such substance, material or device has been reported stolen.

(f) *Disposal of seized property.* The chief of police or his/her authorized representative may safely dispose of any seized property which poses a danger to life or other property in storage, transportation or use and which is not required for evidence or further investigation. Disposal procedures include, but are not limited to, return of the seized property to the rightful owner.

(g) *Receipts from sale of abandoned property.* All receipts from the sale of abandoned property, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the village treasury. Provided, however, the net

proceeds from sales at any bicycle auction shall be paid over to the Everst Metropolitan Police Department and used by the said department in its community crime prevention activities.

(Ord. of 10-16-2000(1), § 1(54.112))

**Editors Note--**Section 1 of an ordinance adopted Oct. 16, 2000, added provisions designated as § 54.112. For better categorizing and indexing, said provisions have been redesignated as § 54.122, at the discretion of the editor. The original section designation has been retained in the history note at the end of the section.

**Sec. 54.123. Unauthorized persons on school property.**

(a) *Types of conduct prohibited.* No person, not in official attendance at or on official business with the DC Everest School District shall enter into any public school building or onto the grounds or campus of any public school, not shall any person congregate, loiter, idle, stand, remain or play upon any property adjacent to and under the control of any public school between the hours of 7:00 a.m. and 4:00 p.m. on official school days.

(b) *Exceptions.* This section shall not apply to persons who have obtained the requisite permission from DC Everest public school officials in accordance with the DC Everest School District's rules and regulations.

(c) *Penalty.* Any person violating this section shall upon conviction thereof, forfeit not less than \$30.00 nor more than \$500.00, together with the costs of prosecution and in default of payment of said forfeiture and costs, shall be imprisoned in the county jail for a period of 30 days until said forfeiture and costs are paid, whichever is less.

(Ord. of 10-16-2000, § 1(54.113))

**Editors Note--**Section 1 of an ordinance adopted Oct. 16, 2000, added provisions designated as § 54.113. For better categorizing and indexing, said provisions have been redesignated as § 54.123, at the discretion of the editor. The original section designation has been retained in the history note at the end of the section.