

**CHAPTER 9
PUBLIC PEACE AND GOOD ORDER**

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9.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE.

(1) Except as otherwise specifically provided in this code, the current and future statutory provisions in Chapters 938 through 948, Chapter 125, Chapter 951, §86.06, §86.192, §254.92(2), §254.76, §175.25, §961.41 and §961.571 through §961.577, Wisconsin Statutes, describing and defining regulation against the peace and good order of the state, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a term of imprisonment, are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by

reference is required to be performed or prohibited by this Code. Any future amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of peace and good order of the state.

(2) **PENALTIES.** Except as otherwise provided, any person found to be in violation of any provision of the section shall be subject to a penalty as provided in §25.04 of the General Code of the Town of Brookfield.

9.02 RESTRICTIONS ON USE AND POSSESSION OF WEAPONS.

(1) **WEAPONS DEFINED.** Weapon means and includes all instruments and devices used for the purpose of propelling bullets, shot, arrows or other missiles, either by explosion, compression, tension, gas, spring or any other means, and shall include without limitation for lack of specific enumeration all forms of guns, rifles, air rifles, and air guns, revolvers, pistols, bows and arrows, sling shots and other similar types of equipment or devices capable of propelling bullets, shot, arrows or missiles through the air by reason of discharge therefrom.

(2) **POSSESSION AND CARRYING RESTRICTED.** No person shall carry or have in his possession at any time within the Town any weapon as defined in sub. (1) unless it is unloaded and knocked down or unloaded and enclosed within a carrying case or other suitable container, except as follows:

- 1. A peace officer
- 2. Within a private residence
- 3. Within a supervised rifle, pistol, trap, skeet or archery range authorized by the Town Board
- 4. When used while hunting as defined in sub. (4).

(3) **DISCHARGE PROHIBITED.** No person shall fire, discharge, or use any weapon as defined in sub. (1) at any time or place within the Town except as follows:

- (a) A peace officer in the performance of his duty.
- (b) On a rifle, pistol, trap, skeet or archery range authorized by the Town Board.
- (c) The discharge of blank cartridges in a firearm suitable for their safe use when utilized as a starting signal device at competitive events, or as a prop in a state performance or as a gun salute as a special function at a parade, funeral or other ceremonial occasion.
- (d) The use of a weapon for hunting game birds and animals under licenses issued by the Wisconsin

Department of Natural Resources under §29.573 and §29.574, Wis. Stats., and as authorized under sub. (4)."

(4) HUNTING. Notwithstanding the prohibitions contained in subs. (2) and (3) of this section, the Town Board may, from time to time, permit the use of weapons on a limited basis. In granting an exception to the prohibition contained in subs. (2) and (3), the Town Board shall:

(a) Impose such reasonable conditions as may be necessary to ensure that the use of weapons during the excepted period of time does not interfere with the peaceful use and enjoyment of properties within the Township and does not create any unreasonable safety hazard for residents of the Town.

(b) Impose such conditions as to the type of weapon to be used and with limitations as to the type of bullet, shot, arrow, or other missile type device to be utilized by the hunter.

(c) Require that all persons engaged in hunting as provided herein shall have in their possession at all times a registered permit on a form provided by the Town and available at the office of the Police Department, signed by the owner of the land granting such person the privilege to be on the land for hunting purposes.

(d) Impose such other conditions as may be consistent with the terms of this section and the recommendations of the Chief of Police.

(5) Notwithstanding anything contained herein to the contrary, in granting an exception to subs. (2) and (3) of this section, the Town Board shall not permit the discharge of weapons within the confines of any platted subdivision, on any lands which are comprised of 5 acres in area or less, within 500' of any building, public street, road or highway or within 500' of the boundaries of any platted subdivision.

9.03 FIREWORKS RESTRICTED. (Cr.06/20/2000) It shall be unlawful for any person to sell, expose, or offer for sale, manufacture, have in his possession, use, keep, discharge, or explode any firecrackers, blank cartridges, toy pistols, toy canes, or cannons in which explosives are used, contrivances using explosive caps or cartridges, display wheels, torpedoes, sky rockets, Roman Candles, aerial salutes, American or Chinese bombs or other fireworks of like construction, or any fireworks containing any explosive or flammable compound or any tablets or devices commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulfides, or lead, barium, antimony,

arsenic, mercury, nitroglycerine, phosphorous or any compound containing any of the same or other modern explosives within the Town, except those type of items listed in section (1).

(1) PERMITTED FOR SALE. The following items are permitted for sale, possession and discharge within the Town;

(a) A cap containing not more than one-quarter grain of explosive mixture if the cap is used or possessed for use in a device which prevents direct bodily contact with a cap when it is in place for explosion.

(b) A toy snake which contains no mercury.

(c) A sparkler on a wire or wood stick not exceeding 36 inches in length that is designed to produce audible or visible effects or to produce audible and visible effects.

(d) A device designed to spray out confetti or streamers and which contains less than one- quarter grain of explosive mixture.

(e) A device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects.

(f) A cylindrical fountain that consists of one or more tubes and that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(g) A cone fountain that is classified by the federal Department of Transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(2) FIREWORKS PROHIBITED. Under no circumstances shall any person sell, expose, or offer for sale, manufacture, have in possession, use, keep, discharge, or explode any fire balloon, mortars, excepting mortars used for special display purposes, cannon, explosive cane, toy pistol, toy revolver or other contrivances using explosive caps or cartridges, any Chinese firecrackers more than 2 inches in length or more than 3/8 inch in diameter, or any article containing a compound of mercury or yellow phosphorous.

(3) FUSES PROHIBITED. No person shall sell, barter, trade, or give any type of railroad or other fuse to a person under the age of 18 years.

(4) PERMIT FOR SPECIAL DISPLAY. Notwithstanding the prohibition contained in subsection (a) above, any fireworks other than those set out in subsection (c) of this

section may be used for pyrotechnic displays given by public authorities, civic organizations or groups of individuals that have been granted a Permit for such display by the Town Board. An indemnity bond with good and sufficient sureties for the payment of all claims that may arise by reason of injuries to persons or property from the handling, use or discharge of fireworks under such permit may be required by the Town of Brookfield, with the Town of Brookfield representatives and employees named as protected parties.

(5) EXCLUSIONS. The prohibitions and penalties provided in the section shall not apply to toy pistols, toy canes, toy guns or other devices in which paper caps manufactured in accordance with the United States Interstate Commerce Commission for packing and shipping of toy paper caps are used, or to toy pistol paper caps so manufactured, the sale and use of which shall be permitted at all times.

(6) PENALTIES. Except as otherwise provided, any person found to be in violation of any provision of the section shall be subject to a penalty as provided in Section 25.04 of the General Code of the Town of Brookfield.

9.04 OBSTRUCTING STREETS AND SIDEWALKS

PROHIBITED. No person shall stand, sit, loaf, loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Town in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place, except with the permission of the Town Board upon written application to the Board.

9.05 LOUD AND UNNECESSARY NOISE

PROHIBITED. (Cr. 10/22/1997) **(1) PERSONS.** No person shall make, or cause to be made, any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public street, alley, park, or private residence.

(2) MOTOR VEHICLES.(a) No person shall cause a motor vehicle to squeal its tires or to cause loud engine noises by excessive acceleration which would tend to annoy or disturb another in or about any public street, alley, park, or any private property.

(b) No person, firm, or corporation shall, at any time between the hours of ten p.m. (10:00 p.m.) and six a.m. (6:00 a.m.), create disturbing sounds associated with the idling of commercial motor vehicles.

(3) AIR CONDITIONING EQUIPMENT. No person shall cause, suffer, or allow any air moving, condition, or

cooling equipment, of any nature or kind, to be so operated or maintained so as to cause any unusual or excessive noise which disturbs the comfort, quiet, or repose of persons in the vicinity thereof and, to this end, all available and reasonable sound deadening and muffling devices and practices shall be employed.

(4) LOADING MERCHANDISE AT STORES. No person shall cause, suffer, or allow any unnecessary or unreasonably loud or harsh sounds, by means of the loading or unloading of merchandise at stores, between the hours of ten p.m. (10:00 p.m.) and six a.m. (6:00 a.m.) which shall disturb the comfort, quiet, or repose of persons in the vicinity thereof.

(5) GARBAGE AND TRASH COLLECTION OPERATION TIMES. For all residential and nonresidential properties, the collection of garbage and trash shall be performed from seven a.m. (7:00 a.m.) to seven p.m. (7:00 p.m.), inclusive. Nonresidential properties located five hundred (500) feet or more from the nearest residential property are exempt from the foregoing restrictions.

(6) CONSTRUCTION. No person, firm, or corporation shall at any time between the hours of seven p.m. (7:00 p.m.) and seven a.m. (7:00 a.m.) create any loud or sharp noises, concussions, or disturbing sounds associated with the construction, excavation, demolition, alteration, or repair of any building or development as may tend to annoy or disturb a reasonable person.

(7) NONRESIDENTIAL SNOW REMOVAL. No person, firm, or corporation shall at any time between the hours of ten p.m. (10:00 p.m.) and six a.m. (6:00 a.m.) create any loud or sharp noises, concussions, or disturbing sounds associated with the removal of snow or ice from nonresidential properties. Public works or other authorized persons are exempt from this ordinance.

(8) MANUFACTURING - INDUSTRIAL - COMMERCIAL OPERATIONS. No person, firm, or corporation shall at any time, between the hours of ten p.m. (10:00 p.m.) and six a.m. (6:00 a.m.), create any loud or sharp noises, concussions, or disturbing sounds associated with the operation of a manufacturing/ industrial/ commercial business.

9.06 GAMBLING - LOTTERIES - FRAUDULENT DEVICES AND PRACTICES PROHIBITED.

All forms of gambling, lotteries, fraudulent devices, and practices are prohibited within the Town. Any Town police officer shall seize anything devised solely for gambling or found in actual use for gambling within the Town and dispose of it after judicial determination that such device was used solely for or found in actual use for gambling.

9.07 LOITERING PROHIBITED. (1) **LOITERING OR PROWLING.** No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a peace officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the peace officer at the time, would have dispelled the alarm.

(2) **OBSTRUCTION OF HIGHWAY BY LOITERING.** No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the same after being requested to move on by any police officer.

(3) **OBSTRUCTION OF TRAFFIC BY LOITERING.** No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossing or bridges, or in any other public places within the Town, in such manner as to prevent, interfere with or obstruct the ordinary free use of the public streets, sidewalks, street crossings and bridges or other public places by persons passing along and over the same.

(4) **LOITERING AFTER BEING REQUESTED TO MOVE.** No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police officer or by any person in authority at such places.

9.08 DESTRUCTION OF PROPERTY PROHIBITED. No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Town or its departments or any private person without the consent of the owner or proper authority.

9.09 LITTERING PROHIBITED. (Amended - 10/01/2001)

(1) **WASTE.** No person, business or corporation shall throw any glass, cans, garbage, rubbish, waste, slop, dirty

water, noxious liquid or other litter or unwholesome substance (hereafter referred to as "Waste"), upon the streets, alleys, sidewalks, highways, public parks or other property of the Town or upon any private property not owned by him or upon the surface of any body of water within the Town.

(2) **YARD WASTE.** No person, business or corporation shall cause grass, leaves or any form of yard waste (hereafter referred to as "Yard Waste") to enter upon public property or in any public body of water within the Town if the grass, leaves or yard waste would create a hazardous condition to the general or motoring public.

(3) **DEBRIS.** No person, business or corporation shall operate, park or store a motor vehicle so as to cause mud, dirt, stones, or vehicle fluids or lubricants (hereafter referred to as "Debris") to become deposited upon public property or in any public body of water within the Town.

(4) **PUBLIC NUISANCE DECLARED.** The depositing of Waste, Yard Waste or Debris on said public property or in any public body of water within the Town is hereby declared a nuisance.

(5) **ENFORCEMENT.** The Town of Brookfield Police Department and Director of Public Works shall be empowered to issue citations for this violation.

(a) **PENALTY.** In addition to the penalty provided under § 25.04 of the Municipal Code, any person, business or corporation violating paragraphs (1) (2) or (3) shall be responsible to clean or remove the Waste, Yard Waste or Debris from public property or any public body of water within the Town.

(b) **SPECIAL CHARGES.** In addition to the penalties provided for in the violation of this ordinance, the Town of Brookfield may remove any Waste, Yard Waste or Debris deposited on the aforementioned public property or public body of water. Any cost incurred by the Town in order to remove the materials shall be deemed a special charge for current services. If not paid within thirty (30) days of being invoiced, the special charge, together with interest calculated at the rate of one and one-half percent (1 1/2%) per month, from the date of the invoice, shall be a lien upon the property from which the Waste, Yard Waste or Debris emanated. Said special charge shall be included in the current, or next, tax roll for collection and settlement in accordance with the provisions of Wis. Stats. Ch. 74.

(6) **APPEAL.** The issuance of an invoice shall be deemed notice to the property owner of the special charge in accordance with the provisions of Wis. Stat. § 66.0627. Any property owner may, within thirty (30) days of the date

of the invoice, appeal the special charge to the Town Board by providing written notice of any objection to the special charge. The Town Board, upon receipt of such a special charge, shall place the objection on the Town Board agenda for review and consideration. Notice of the Town Board meeting shall be provided to the party objecting to the special charge. The Town Board shall, after hearing the objection, either affirm, affirm in part, or rescind the special charge. The decision of the Town Board shall be final.

9.10 HARBORING CERTAIN ANIMALS PROHIBITED. See §12.07(3) of this Code of Ordinances.

9.11 OPEN CISTERNS, WELLS, BASEMENTS, OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations, or other dangerous openings. All such places shall be filled, securely covered, or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size, and weight that the same cannot be removed by small children. Any violation of this section is a public nuisance and may be disposed of in accordance with Ch. 823, Wis. Stats.

9.12 ABANDONED OR UNATTENDED ICEBOXES, ETC., PROHIBITED.

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

9.13 CURFEW. (1) HOURS. (a) SPECIFIED. No person under the age of 17 years shall loiter, idle or remain upon any street, alley or other public place in the Town between 11 p.m. and 6 a.m. the next day unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

(b) EXCEPTIONS.

1. This section shall not apply to a child:
 - a. Who is performing an errand as directed by his parent, guardian, or person having lawful custody.
 - b. Who is performing an errand of urgent necessity.

c. Who is on his own premises or in the areas immediately adjacent thereto.

d. Whose employment makes it necessary to be upon the streets, alleys, or public places or in any motor vehicle during such hours.

e. Who is returning home from a supervised school, church, or civic function or going to or from places of business or amusements or private homes.

2. These exceptions shall not permit a child to loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(2) PARENTAL VIOLATION. No parent, guardian or other person having legal custody of a child under the age of 17 years shall permit such child to loiter, idle or remain upon any street, alley or other public place in the Town between 11 p.m. and 6 a.m. the next day, unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

(3) RESPONSIBILITY OF OPERATORS OF HOTELS, MOTELS, AND ROOMING HOUSES. No person operating a hotel, motel or lodging or rooming house within the Town, or any agent, servant or employee of such person, shall permit any child under the age of 17 years to visit, idle, wander or stroll in any portion of such hotel, motel or lodging or rooming house between 11 p.m. and 6 a.m. the next day unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

(4) LOITERING IN SCHOOL AND PLAYGROUND AREAS. No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand, or play in any school building, or in or about any playground area adjacent thereto within the Town between 8 a.m. and 4 p.m. on official school days.

(5) DETAINING A CHILD. A child believed to be violating the provisions of this section may be taken to the Police Department for proper identification. Any law enforcement officer on duty may detain any child violating subs. (1), (3) or (4) until such time as the parent, guardian or other adult person having legal custody of the child has been immediately notified and the person so notified has, as soon as reasonably possible thereafter, reported to the Police Department or the scene for the purpose of taking the child into custody. The child may also be released from the police department or the scene to another responsible adult with permission from the parent, guardian or other adult person having legal custody.

(6) **WARNING.** The first time a child is detained by law enforcement officers as provided in sub. (5), the parent, guardian or person having legal custody shall be advised as to the provisions of this section; and any violation of this section occurring thereafter by this child or any other child under such adult's care or custody shall result in a penalty being imposed as provided in sub. (7).

(7) **GENERAL PENALTY.** (a) Any parent, guardian, or person having legal custody of a child described in subs. (1), (3), or (4) who has been warned in the manner provided in sub. (6), and who thereafter violates any of the provisions of this section, shall be subject to a penalty as provided in §25.04 of this General Code.

(b) Any child who violates this section after being detained and released under sub. (5) shall be subject to a penalty as provided in 25.04 of this General Code.

9.14 POLITICAL SIGNS. Political signs may be erected, installed or placed on any property within the Town provided the erection, installation and placement of such signs is done with the approval of the owner or occupant of such property as provided in §86.19, Wis. Stats., no political sign shall be erected, installed or placed within the right-of-way of any public street or highway within the Town and such signs shall not be attached or fixed to any utility pole, tree or other structure within the right-of-way line of any public street within the Town. Any political sign erected, installed, or placed within the right-of-way of any public street or highway within the Town shall be summarily removed by the Highway Department. All political signs erected, installed, or placed shall be removed within 5 days after the date of the election relating to such political signs by the owner or occupant of the land upon which such signs are located. No permit shall be required and no permit fee charged for the installation of any political sign as provided in this section.

9.15 RESIDENTIAL PICKETING. (1)

DECLARATION. It is declared that:

(a) The protection and preservation of the home is the keystone of democratic government and the public health, welfare and good order of the community require that members of the community enjoy in their homes and dwellings a feeling of well being, tranquility and privacy and, when absent from their homes and dwellings, carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes and dwellings.

(b) The practice of picketing before or about residences and dwellings causes emotional disturbance and distress to the occupants, obstructs and interferes with free use of public sidewalks and public ways of

travel and such practice has as its object the harassing of such occupants.

(c) Without resort to such practice, full opportunity exists, and under the terms and provisions of this chapter will continue to exist, for the exercise of freedom of speech and other constitutional rights.

(d) The provisions enacted by this section are necessary for the public interest to avoid such detrimental results set forth above and are enacted by the Town Board under the provisions of §61.34(1), Wis. Stats., which statute gives powers to a village board to enact these regulations, which powers are available to the Town Board under the village board powers assumed by the Town Board under §60.10(2)(c), Wis. Stats.

(2) PICKETING RESIDENCE OR DWELLING PROHIBITED.

No person shall engage in picketing before or about the residence or dwelling of any individual in the Town.

9.16 PUBLIC DRINKING PROHIBITED.

No person shall consume or have in his possession open containers of intoxicants of fermented malt beverages or intoxicating liquor in or upon any public thoroughfare except with a permit issued by the Town. By thoroughfare, this section shall be construed to include any public road, street, alley, highway, freeway, interstate, County trunk highway, public right-of-way, or parking lot, whether public or private, normally held out for use by the public.

9.17 FEEDING OF WILD GEESE AND DUCKS REGULATED.

No person shall feed any wild geese or ducks in Brook Park Estates Subdivision in the Town of Brookfield".

9.18 PRIVATE ALARM SYSTEMS.

(1) **DEFINITIONS.** (a) **ALARM SYSTEM.** Any electrical or mechanical device for the detection of an unauthorized entry on premises or for alerting others of the commission of an unlawful act or both or for the detection of a fire and when activated, emits a sound or transmits a signal, message or both.

(b) **FALSE ALARM.** A signal from an alarm system which results in a call direct or indirect to the Town Police Department or the Waukesha County Sheriffs Department serving the Town and resulting in a response by the Town Police Department when actual emergency does not exist.

(c) **PERSON.** Any individual, partnership, corporation or other entity.

(d) **PRIVATE ALARM SYSTEM.** Any alarm not owned or leased by the Town.

(2) **PROHIBITIONS.** (a) **FALSE ALARM.** No person owning, leasing, using, or possessing a private alarm system shall by means of the alarm system give a false alarm.

(b) **DEFENSE.** The fact that the false alarm was accidentally caused by human error or by electrical or mechanical malfunction shall not be a defense to this section.

(3) **PENALTY.** (a) **FIRST THREE VIOLATIONS.** For the first three- (3) violations of this section within one calendar year, the person in violation shall be issued a warning by a Town police officer.

(b) **FOURTH AND SUCCEEDING VIOLATIONS.** For the fourth and succeeding violations of this section within one calendar year, the person in violation shall, upon conviction, be subject to penalties set forth in §25.04 of the Town Code.

(c) When a property owned by a person who has violated this section is sold to another person, the first violation thereafter shall be treated as an initial violation and penalized accordingly.

9.19 DRUG PARAPHERNALIA. (1) **DEFINITIONS.** In this section "drug paraphernalia " means all equipment, products and materials of any kind which are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, as defined in Ch. 161, Wis. Stats., in violation of this section. It includes, but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant, which is a controlled substance.

(d) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the

strength, effectiveness or purity or controlled substances.

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances.

(f) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(g) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances.

(h) Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances.

(i) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(j) Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body.

(k) Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish "or hashish oil into the human body, including but not limited to:

1. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls.
2. Water pipes.
3. Carburetion tubes and devices.
4. Smoking and carburetion masks.
5. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
6. Miniature cocaine spoons and cocaine vials.
7. Chamber pipes.
8. Carburetor pipes.
9. Electric pipes.
10. Air-driven pipes.

- 11. Chillums.
- 12. Bongs.
- 13. Ice pipes or chillers.

(2) DETERMINATION OF DRUG PARAPHERNALIA. In determining whether an object is drug paraphernalia, the following shall be considered:

- (a) Statements by an owner or by anyone in control of the object concerning its use.
- (b) Prior convictions, if any, of an owner or of anyone in control of the object, under any local, state or federal law relating to any controlled substance.
- (c) The proximity of the object in time and space to a direct violation of this section.
- (d) The proximity of the object to controlled substances.
- (e) The existence of any residue of controlled substances on the object.
- (f) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of any owner or of anyone in control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
- (g) Oral or written instructions provided with the object concerning its use.
- (h) Descriptive materials accompanying the object that explain or depict its use.
- (i) National and local advertising concerning its use.
- (j) The manner in which the object is displayed for sale.
- (k) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise.
- (l) The existence and scope of legitimate uses for the object in the community.
- (m) Expert testimony concerning its use.

(3) PROHIBITED ACTIVITIES. (a) POSSESSION OF DRUG PARAPHERNALIA. No person shall use or possess with intent to use, drug paraphernalia to plant,

propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

(b) MANUFACTURE, SALE OR DELIVERY OF DRUG PARAPHERNALIA. No person shall sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.

(c) DELIVERY OF DRUG PARAPHERNALIA TO A MINOR. Any person 18 years of age or over who violates par. (b) by delivering drug paraphernalia to a person under 18 years of age is guilty of a special offense.

(d) ADVERTISEMENT OF DRUG PARAPHERNALIA. No person may place in any newspaper, magazine, handbill or other publication or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(e) EXEMPTION. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This section does not prohibit the possession, manufacture, or use of hypodermics in accordance with Ch. 961, Wis. Stats.

(4) PENALTIES. (a) Any drug paraphernalia used in violation of this section shall be seized and forfeited to the Town.

(b) Any person who violates sub. (3) (a), (b) or (d) shall, upon conviction thereof, forfeit \$1,000, together with costs, and shall be imprisoned in the county jail until the costs are paid, but not to exceed 30 days.

(c) Any person who violates sub. (3) (c) shall, upon conviction thereof, forfeit \$1,000, together with costs, and shall be imprisoned in the county jail until the costs are paid, but not to exceed 40 days.

9.20 GARBAGE, RUBBISH AND RECYCLABLE MATERIAL COLLECTION. (1) PURPOSE. This section is to require the removal of garbage, rubbish, and recyclable materials from all properties within the Town and

to provide for the collection thereof. The accumulation of garbage and rubbish is a public nuisance and utilization of limited landfill sites for recyclable materials is contrary to the public interest.

(2) SPECIAL CHARGE. Under §66.049, Wis. Stats., the Town Board shall, from time to time, by motion or resolution, establish a special charge for collection of garbage, rubbish, and recyclable materials, which shall apply to all improved residential properties. All classes of properties other than residential properties shall contract separately for the removal and disposal of garbage, rubbish, and recyclable materials. This section shall apply to residential units included in a building containing a nonresidential use, but not as to those portions of a building that are devoted to nonresidential uses. Each unit of condominium shall be considered a single residential unit for the purposes of this section.

(3) DEFINITIONS. (a) GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooling, and consumption of food.

(b) RUBBISH. Useless solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials.

(c) RECYCLABLE MATERIALS. Means material waste for which there exists a commercially demonstrated processing and manufacturing technology, which uses the material as a raw material. This term shall include the nature and extent of recyclable materials as that term may be defined in any contract entered into between the Town and a private waste hauler.

(4) TIME AND MANNER OF PLACING CONTAINERS. Refuse and recycling containers shall be placed at the point of collection by the owner, tenant, lessee or occupant of the premises not more than 24 hours preceding the normal collection day and shall be removed therefrom, in the case of curbside collection, not more than 12 hours after collection. The person so placing the containers shall make him or herself familiar with the collection schedule and place and remove the containers so that a neat and orderly appearance will be maintained. He shall keep the containers out of the traveled portion of the street or alley and prevent the contents from spilling.

(5) RECYCLING PROGRAM. Effective as of April 1, 1992 recyclable materials, as that term is defined in this section, shall be separated from garbage and rubbish to reduce the amount of solid waste to be disposed of and at the same time, reduce the financial burden of solid waste disposal. Recyclable materials will be separated into designated containers and placed at the point of collection

by residents for collection by an authorized agent of the Town. The designated recycling containers shall be purchased by the Town and shall remain the property of the Town. The property owner, at the expense of the property owner shall replace containers, which are lost, damaged, or removed from the property. The Town Board shall establish the cost of such replacement from time to time. The Town will bill the property owner for the cost of the replacement of the containers and if the property owner fails to pay the bill, the cost thereof shall be placed on the property tax roll.

(6) OWNERSHIP OF RECYCLABLE MATERIALS. From and after the time of placement of recyclable materials at the curb for collection, items shall become the property of the Town or its authorized hauling agent. No person shall collect or cause to be collected any such items during the period commencing 24 hours preceding a day designated for collection of recyclable materials.

(7) RESTRICTIONS ON ITEMS INCLUDED IN GARBAGE AND RUBBISH COLLECTION. No person shall place in any container designated for garbage or rubbish collection or in any container designated for placement of recyclable materials, any building materials, board lumber, carpet, auto parts, tires, automotive batteries, waste oil, landscape timbers, piers, rocks, dirt, concrete, drywall, plaster, siding, windows, doors, cabinets, sinks, bath tubs, toilet bowls, basins, etc., any hazardous or toxic materials as defined in the State of Wisconsin, Department of Natural Resources regulation NR 181, or any yard waste, leaves, grass clippings or branches.

9.21 PARK CLOSING HOURS. (1) All Town parks shall be closed to the public between 10 p.m. and 5 a.m.

(a) Persons found in the park or its roadways during the above closed period shall be considered violators.

(b) Special permission to enter a park during the above hours may be granted by the Chief of Police where ingress and egress for property adjoining the park is necessary. Use of a Town park after closing hours may be granted only upon application to the Town Board for a special park use permit.

9.22 SNOWMOBILES RESTRICTED. The restrictions and prohibitions concerning the operation of snowmobiles found in §350.02, Wis. Stats., are hereby adopted by reference and made a part of this section with the same force and effect as if fully set forth herein. For the purpose of this section, the definitions of words and phrases contained in Ch. 350, Wis. Stats., are hereby adopted and by reference made a part hereof with the same force and effect as if fully set forth herein.

9.23 OPERATION OF MINIBIKES, TRAIL BIKES, AND OTHER ALL-TERRAIN SELF-PROPELLED MOTOR VEHICLES. (1) **DEFINITIONS.** Whenever any of the following terms are used in this section, such terms shall be deemed and construed to have the meaning ascribed to them as follows:

(a) **PUBLIC THOROUGHFARE.** Includes any public road, street, alley, highway, freeway, interstate, Town trunk highway, or public right-of-way.

(b) **SELF-PROPELLED MOTOR VEHICLE.** Includes any minibikes, trail bikes, or other all-terrain vehicles, expressly excluding herefrom snowmobiles, which are regulated by §9.22 of this chapter.

(c) **TRAVELED PORTION OR PARKING LOT.** The paved or otherwise surfaced portion of the roadway and the prepared shoulders, but shall not include the grass areas within the statutory limits of the highways and contiguous to the traveled portion thereof.

(2) **RESTRICTIONS.** (a) No self-propelled, all-terrain motor vehicle shall be operated on any Town lands except on the traveled portion of any public thoroughfare and parking areas specifically designated for such traveling or parking.

(b) This section shall not apply to land or property leased by persons or corporations from the Town or land upon which permits for a specific limited use has been granted.

9.24 PAWNBROKERS, SECONDHAND ARTICLE, AND JEWELRY DEALERS. (1) **DEFINITIONS.** In this section:

(a) **ARTICLE** means any of the following articles except jewelry.

1. Audio-visual equipment.
2. Bicycles.
3. China
4. Computers, printers, software and computer supplies.
5. Computer toys and games.
6. Coin Collections
7. Crystal.
8. Electronic Equipment
9. Fur coats, fur clothing and other clothing.

10. Ammunition, guns and knives.

11. Microwave ovens.

12. Office equipment.

13. Pianos, organs, guitars and other musical instruments.

14. Silverware and flatware.

15. Small electrical appliances.

16. Telephones.

17. Other tangible personal property.

(c) **CHARITABLE ORGANIZATIONS** means a corporation, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty of children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) **CUSTOMER** means a person with whom a pawnbroker, secondhand article dealer or secondhand jewelry dealer or an agent thereof engages in a transaction of purchase, sale receipt of exchange of any secondhand article or secondhand jewelry.

(e) **JEWELRY** means any tangible personal property ordinarily wearable on the person and consisting in whole or in part of any metal, mineral or gem customarily regarded as precious or semiprecious.

(f) **MUNICIPALITY** means a city, village or town.

(g) **PAWNBROKER** means any person who engages in the business of lending money on the deposit of pledge of any article or jewelry, or purchasing any article or jewelry with an expressed or implied agreement or understand to sell it back at a subsequent time at a stipulated price.

(h) **SECONDHAND** means owned by any person except a wholesaler, retailer, or secondhand article dealer or second hand jewelry dealer licensed under this section, immediately before the transaction at hand.

(i) **SECONDHAND ARTICLE DEALER** means any person who primarily engages in the business of purchasing or selling secondhand articles, except when engaging in any of the following:

1. Any transaction at an occasional garage or yard sale, an estate sale, a gun, knife, gem or antique sale, a convention or an auction.

2. Any transaction entered into by a person while engaged in a business for which the person is licensed under sub. (2) or (4) or while engaged in the business of junk collector, junk dealer, auctioneer, or scrap processor as described in §70.995 (2) (x) Wisconsin Statute.

3. Any transaction while operating as a charitable organization or conducting a sale the proceeds of which are donated to a charitable organization.

4. Any transaction between a buyer of a new article and the person who sold the article when new which involves any of the following:

- i. The return of the article.
- ii. The exchange of the article for a different, new article.

5. Any transaction as a purchaser of a secondhand article from a charitable organization if the secondhand article was a gift to the charitable organization.

6. Any transaction as a seller of a secondhand article which the person bought from a charitable organization if the secondhand article was a gift to the charitable organization.

(2) LICENSE FOR PAWNBROKER. No person may operate as a pawnbroker unless the person first obtains a pawnbroker's license under this section.

(3) LICENSE FOR SECONDHAND ARTICLE DEALER.

(a) Except as provided in par. (b), no person may operate as a secondhand article dealer unless the person first obtains a secondhand article dealer's license under this section.

(b) A person who operates as a secondhand article dealer only on premises or land owned by a person having a secondhand dealer mall or flea market license under sub. (9) need not obtain a secondhand article dealer's license.

(4) LICENSE FOR SECOND HAND JEWELRY DEALER. No person may operate as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry dealer's license under this section.

(5) LICENSE APPLICATION. A person wishing to operate as pawnbroker, secondhand article dealer or secondhand jewelry dealer in the Town shall apply to the Town Clerk for a license. The application shall include the following:

(a) The applicant's name, place, and date of birth and residence address.

(b) The names and addresses of the business and of the owner of the business premises.

(c) A statement as to whether the applicant has been convicted within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of the licensed activity and, if so, the nature and date of the offense and the penalty assessed.

(d) Whether the applicant is a natural person, corporation or partnership, and:

- 1. If the applicant is a corporation, the state where incorporated and the names and addresses of all officers and directors.
- 2. If the applicant is a partnership, the names and addresses of all partners.
- 3. The name of the manager or proprietor of the business.
- 4. Any other information that the county or municipal clerk may reasonably require.

(6) INVESTIGATION OF LICENSE APPLICANT. The Police Department shall investigate each applicant for a pawnbroker's secondhand article dealer's or secondhand jewelry dealer's license to determine whether the applicant has been convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation described under sub. 5)(c) and, if so, the nature and date of the offense and the penalty assessed. The law enforcement agency shall furnish the information derived from that investigation in writing to the Town Clerk.

(7) LICENSE ISSUANCE. (a) The Town Board shall grant the license if all of the following apply:

- 1. The applicant, including an individual, a partner or an officer, director or agent of any corporate applicant, has not been convicted within the preceding 10 years of a felony or within the preceding 5 years of a misdemeanor, statutory violation punishable by forfeiture or county or municipal ordinance violation in which the circumstances of the felony, misdemeanor or other offense substantially relate to the circumstances of being a pawnbroker, secondhand jewelry dealer,

secondhand article dealer or secondhand article dealer mall or flea market owner.

2. With respect to an applicant for a pawnbroker's license, the applicant provides to the governing body a bond of \$500.00, with not less than two (2) sureties for the observation of all municipal ordinances relating to pawnbrokers.

(b) No license issued under this subsection may be transferred.

(c) License validation dates as follows:

1. Each license for a pawnbroker, secondhand article dealer or secondhand jewelry dealer is valid from July 1 until the following June 30.

2. Each license for a secondhand article dealer mall or flea market is valid for 2 years, from May 1 of an odd-number year until April 30 of the next odd-number year.

(8) PAWNBROKER AND DEALER REQUIREMENTS.

(a) **IDENTIFICATION.** No pawnbroker, secondhand article dealer or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer without first securing adequate identification from the customer. At the time of the transaction, the pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall require the customer to present one of the following types of identification:

1. A county identification card.
2. A state identification card.
3. A valid Wisconsin motor vehicle operator's license.
4. A valid motor vehicle operator's license, containing a picture, issued by another state.
5. A military identification card.
6. A valid passport.
7. An alien registration card.
8. A senior citizen's identification card containing a photograph.
9. Any identification document issued by a state or federal government, whether or not containing a picture, if the pawnbroker, secondhand article dealer,

or secondhand jewelry dealer obtains a clear imprint of the customer's right index finger.

(b) **TRANSACTIONS WITH MINORS.**

1. Except as provided in subd. 2, no pawnbroker, secondhand article dealer, or secondhand jewelry dealer may engage in a transaction of purchase, receipt or exchange of any secondhand article or secondhand jewelry from any minor.

2. A pawnbroker, secondhand article dealer, or secondhand jewelry dealer may engage in a transaction described under sub. 1 if his or her parent or guardian accompanies the minor at the time of the transaction or if the minor provides the pawnbroker, secondhand article dealer or secondhand jewelry dealer with the parent's or guardian's written consent to engage in the particular transaction.

(c) **RECORDS.** 1. Except as provided in subd.2, for each transaction or purchase, receipt or exchange of any secondhand article or secondhand jewelry from a customer, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall require the customer to complete and sign, in ink, the appropriate form provided under sub (12). No entry on such a form may be erased, mutilated, or changed. The pawnbroker, secondhand article dealer or secondhand jewelry dealer shall turn over the original within the 15 days of date of purchase or receipt to the Police Department. Same shall also retain a duplicate of the form for not less than 1 year after the date of the transaction, except as provided in paragraph (e) and during that period shall make the duplicate available to any law enforcement officer for inspection at any reasonable time.

2. For every secondhand article purchased, received or exchanged by a secondhand article dealer from a customer off the secondhand article dealer's premises or consigned to the secondhand article dealer for sale on the secondhand article dealer's premises, the secondhand article dealer shall keep a written inventory. In this inventory the secondhand article dealer shall record the name and address of each customer, the date, time, and place of the transaction and a detailed description of the article which is the subject of the transaction. The customer shall sign his or her name on a declaration of ownership of the secondhand article identified in the inventory and shall state that he or she owns the secondhand article. The secondhand article dealer shall retain an original and a duplicate of each entry and declaration of ownership relating to the purchase, receipt or exchange of any secondhand article for not less than one year after the date of transaction except as

provided in par. (e), and shall make duplicates of the inventory and declarations of ownership available to any law enforcement officer for inspection at any reasonable time.

(d) HOLDING PERIOD.

1. Except as provided in subd. 5, any secondhand article or secondhand jewelry purchased or received by a pawnbroker shall be kept on the pawnbroker's premises or other place for safekeeping for not less than 30 days after the date of purchase or receipt, unless the person known by the pawnbroker to be the lawful owner of the secondhand article or secondhand jewelry recovers it.

2. Except as provided in subd. 5, any secondhand article purchased or received by a secondhand article dealer shall be kept on the secondhand article dealer's premises or other place for safekeeping for not less than 15 days after the date of purchase or receipt.

3. Except as provided in subd. 5, any secondhand jewelry purchased or received by a secondhand jewelry dealer shall be kept on the secondhand jewelry dealer's premises or other place for safekeeping for not less than 15 days after the date of purchase or receipt.

4. During the period set forth in subd. 1, 2, or 3 the secondhand article or secondhand jewelry shall be held separate and apart and may not be altered in any manner. The pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall permit any law enforcement officer to inspect the secondhand article or secondhand jewelry during this period. Within 24 hours after a written request of a law enforcement officer during this period, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available for inspection any secondhand article or secondhand jewelry which is kept off the premises for safekeeping. Any law enforcement officer who has reason to believe any secondhand article or secondhand jewelry was not sold or exchanged by the lawful owner may direct a pawnbroker, secondhand article dealer or secondhand jewelry dealer to hold that secondhand article or secondhand jewelry for a reasonable length of time which the law enforcement officer considers necessary to identify it.

5. Subdivisions 1 to 4 do not apply to a secondhand article or secondhand jewelry consigned to a pawnbroker, secondhand article dealer or secondhand jewelry dealer.

(e) REPORT TO LAW ENFORCEMENT AGENCY. Within 24 hours after purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker, secondhand article dealer or secondhand jewelry dealer shall make available, for inspection by a law enforcement officer, the original form completed under par.(c) 1 or the inventory under par.(c) 2, whichever is appropriate. Notwithstanding §19.35 (1), Wis. Stats., a law enforcement agency receiving the original form or inventory or a declaration of ownership may disclose it only to another law enforcement agency.

(f) EXCEPTION FOR CUSTOMER RETURN OR EXCHANGE. Nothing in this subsection applies to the return or exchange, from a customer to a secondhand article dealer or secondhand jewelry dealer, of any secondhand article or secondhand jewelry purchased from the secondhand article dealer or second jewelry dealer.

(9) SECONDHAND ARTICLE DEALER MALL OR FLEA MARKET. (a) The owner of any premises or land upon which 2 or more persons operate as secondhand article dealers may obtain a secondhand article dealer mall or flea market license for the premises or land if the following conditions are met:

1. Each secondhand article dealer occupies a separate sales location and identifies himself or herself to the public as a separate secondhand article dealer.

2. The secondhand article dealer mall or flea market is operated under one name and at one address, and is under the control of the secondhand article dealer mall or flea market license holder.

3. All sales are completed at a central location under the control of the secondhand article dealer mall or flea market license holder, who maintains a record of all sales.

(b) The secondhand article dealer license holder and each secondhand article dealer operating upon the premises or land shall comply with sub (8).

(10) LICENSE REVOCATION. A governing body of a county or municipality may revoke any license issued by it under this section for fraud, misrepresentation or false statement contained in the application for a license or for any violation of this section or s. 943.34, 948.62, 948.63, or any applicable Wisconsin statutes.

(11) FEES. The license fees under this section are: (Cr. 04/15/1997)

- (a) For a pawnbroker's license, \$500.00.
- (b) For a secondhand article dealer's license, \$500.00.
- (c) For as secondhand jewelry dealer's license, \$500.00.
- (d) For a secondhand article dealer mall or flea market license, \$500.00

(12) APPLICATIONS AND FORMS. The Department of Justice shall develop applications and other forms required under subs. (5) intro. and (8) (c). The Department of Justice shall print a sufficient number of applications and forms to provide to counties and municipalities for distribution to pawnbrokers, secondhand article dealers, and secondhand jewelry dealers at no cost.

(13) PENALTY. (a) Upon conviction for a first offense under this section, a person shall forfeit not less than \$50 or more than \$1,000.

(b) Upon conviction for a 2nd or subsequent offense under this section, a person shall forfeit not less than \$500 or more than \$2,000.

9.25 HOTELS, MOTELS, INNS AND OTHER TRANSIENT LODGING FACILITIES - CERTAIN RECORDS.

(1) REGISTER REQUIRED. Every owner, keeper, proprietor or agent of any lodging house, rooming house, motel, hotel, inn or other transient lodging facility shall keep a register wherein all guests, roomers, or lodgers shall inscribe their names and permanent address upon procuring lodging, a room or accommodations. The owner, keeper, proprietor or agent shall also inscribe the room number occupied and the date and time of registration and checkout.

(2) IDENTIFICATION REQUIRED. Said owner, keeper, proprietor or agent shall request identification of any guest, roomer or lodger paying in cash, at the time of registration. Such identification shall be in a valid and current form showing the person's name, date of birth, and may be, but is not limited to, a driver's license, state issued picture identification card, or other such form as will reasonably assure that the registrant is, in fact, the person under whose name such lodging room or accommodation is being procured. A photocopy of such identification shall be maintained or the identifying information transposed onto the registration card or form. For any guest, roomer or lodger taking occupancy through a prearranged reservation in the name of a corporation, business, association or any other entity, the owner, keeper or proprietor shall request identification of the specific guest, roomer or lodger at the time of registration.

Said documentation shall reasonably assure the identity of such person whom the lodging, room, or accommodations have been procured is correct. Said owner, keeper or proprietor shall verify the credit card signature of each guest, roomer or lodger making payment by way of credit card, with the signature inscribed upon the hotel register.

(3) MISREPRESENTATION OF IDENTIFICATION PROHIBITED. No person may knowingly procure or provide lodging from a rooming house, hotel, motel, inn or other transient lodging facility, or any services therefrom, through misrepresentation or production of false identification, or identification which misrepresents the identity of the person procuring or sharing in such lodging or service. No person may knowingly give, or cause to be given, an incorrect name address, date of birth, or license plate number to any owner, keeper, proprietor or agent of any establishment required to maintain records under this section.

(4) RECORDS REQUIREMENTS. Records required to be maintained in accordance with subsections (1), (2) and (3) of this section, together with vehicle registration information, records of telephone calls and other billing records, when maintained by the establishment in the ordinary course of business, shall be provided to any officer of the Town of Brookfield Police Department upon demand and representation that a reasonable suspicion exists that such information is relevant to a then-pending inquiry or investigation. Nothing in this requirement shall be construed as giving any such officer greater right or license to enter a room or invade privacy than the officer shall otherwise possess.

(5) RECORDS RETAINED. Records required to be kept in accordance with this section shall be retained for one (1) year after the date the last entry is recorded.

9.28 CIGARETTES OR TOBACCO PRODUCTS, POSSESSION BY MINORS. (Cr. 07/18/1995)

(1) DEFINITIONS. In this section:

- (a) **“Cigarette”** has the meaning given in Section 139.30(1), Wis. State Stats.
- (b) **“Distributor”** means a person specified under §139.30(3) or §139.75(4), Wis. State Stats.
- (c) **“Identification Card”** means a license containing the photograph issued under Chapter 343, Wis. Stats., an identification card issued under §343.50, Wis. Stats., an identification card issued under §125.08, Wis. Stats. (1987).
- (d) **“Jobber”** has the meaning given in §139.30(6), Wis. Stats.

(e) "*Law Enforcement Officer*" has the meaning given in §30.50(4), Wis. Stats.

(f) "*Manufacturer*" means any person specified under §139.3(7) or §139.75(5), Wis. Stats.

(g) "*Place of Business*" means any place where cigarettes or tobacco products are sold, manufactured, or stored for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

(h) "*Retailer*" means any person licensed under §134.65(l), Wis. Stats.

(i) "*School*" has the meaning given in §118.2S7(l)(c), Wis. Stats.

(j) "*Subjobber*" has the meaning given in §139.75(11), Wis. Stats.

(k) "*Tobacco Products*" has the meaning given in §139.75(12), Wis. Stats.

(l) "*Vending Machine*" has the meaning given in §139.30(14), Wis. Stats.

(m) "*Vending Machine Operator*" has the meaning given in §139.30(15), Wis. Stats.

(2) **RESTRICTIONS.** (a) Except as provided in sub. (3), no person under the age of 18 may buy or attempt to buy any cigarettes or tobacco products, falsely represent his or her age for the purpose of receiving any cigarette or tobacco product, or possess any cigarette or tobacco product.

(b) Except as provided in sub. (c), no retailer may sell or give cigarettes or tobacco products to any person under the age of 18.

(c) A vending machine operator is not liable under this paragraph for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

(d) A retailer shall put a sign in areas within his or her 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 is unlawful under this ordinance or comparable state law.

(e) No person may place a vending machine within 500 feet of a school.

(f) No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide

cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.

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

(3) Proof of all the following facts by a retailer who sells cigarettes or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub.

(2) (b) above:

(a) That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card; and

(b) 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; and

(c) That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

(4) **SEIZURE OF CIGARETTE OR TOBACCO PRODUCTS.** A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of this ordinance committed in his or her presence.

(5) **PENALTY.** (a) Any person under the age of 18 who shall violate the provisions of this ordinance shall upon conviction be subject to a forfeiture not to exceed Fifty Dollars (\$50.00) plus all court costs.

(b) Any person under the age of 18 who violates any provision of this ordinance may, upon conviction, at the sole discretion of the court, be offered the opportunity to have the citation dismissed upon attendance in a tobacco use education program approved by the court. This opportunity will be available at the sole discretion of the court, irrespective of the number of citations any individual receives.

(c) No citation may be issued for violation of a minor having possession of any cigarette or tobacco product unless personally observed by the issuing officer.

(d) Any person who shall violate (2)(b) of this ordinance shall upon conviction forfeit not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) together with the costs of prosecution, and in default of the forfeiture and costs of prosecution, or either of them, such convicted person

shall be committed to and confined with the County Jail of Waukesha County, Wisconsin, until such fine and costs of prosecution are paid, but not to exceed 30 days.

9.30 PENALTIES. (1) GENERAL. Except as otherwise provided in this chapter, any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in §25.04 of this Code of Ordinances.

(2) DAMAGES. In addition to any penalty imposed for violation of this chapter, any person who shall cause physical damage or destroy any public property shall be liable for costs of replacing or repairing such damages or destroyed property. The parent or parents of any unemancipated minor child who violates §9.08 of this chapter, may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with §895.035, Wis. Stats.