

Chapter 30 MISCELLANEOUS OFFENSES

Cross reference— Traffic and vehicles, ch. 50.
State Law reference— Crimes, Wis. Stat. chs. 939—948.

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Article I. In General

Sec. 30-1. Offenses against state laws subject to forfeiture.

The following statutes defining offenses against the peace and good order of the state are adopted by reference to define offenses against the peace and good order of the town provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under section 1-14:

29.601(3)	Throwing noxious substances in waters
110.075(7)	Producing/manufacturing/using inspection sticker fraudulently
134.06	Bonus to chauffeurs for purchases, forbidden
175.25	Illegal storage of junked automobiles
218.0145	Used cars/prohibited acts
218.0146	Odometer readings
218.0147	Purchase or lease of motor vehicles by minor
254.76	Causing fires by tobacco smoking
285.30	Motor vehicle emissions, limitations; inspections
287.81	Littering
939.22	Words and phrases defined
941.10	Negligent handling of burning materials
941.12(2), (3)	Interfering with firefighting
941.13	False alarms
943.01(1)	Criminal damage to property (value under \$500.00)
943.13	Trespass to land
943.14	Criminal trespass to dwellings
946.40	Refusing to aid officer
946.41	Resisting or obstructing officer
946.70	Impersonating peace officer
946.72(2)	Tampering with public records and notices
947.01	Disorderly conduct
947.06	Unlawful assemblies
951.01—951.16	Crimes against animals

(Code 1982, § 9.01)

Sec. 30-2. Obedience to officers.

No person shall resist or interfere with any officer of the town while such officer is doing any act in his official capacity and with lawful authority, nor shall any person refuse to assist an officer in carrying out his duties when so requested by the officer.

(Code 1982, § 9.11)

Sec. 30-3. Penalties.

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 1-14. In addition to any penalty imposed for violation of Wis. Stat. § 943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates Wis. Stat. § 943.01(1) may also be held liable for the cost of repairing such damaged or destroyed property in accordance with Wis. Stat. § 895.035.

(Code 1982, § 9.20)

Secs. 30-4—30-30. Reserved.

Article II. Crimes Against Public Safety

Sec. 30-31. Throwing or shooting missiles and projectiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or any other means, at any person, or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the town.

(Code 1982, § 9.03)

Sec. 30-32. 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 fastened in such manner as to prevent injury to any person; and any cover shall be of such design, size and weight that the cover cannot be removed by small children.

(Code 1982, § 9.12)

State law reference— Capping and filling wells, etc., Wis. Stat. § 167.27.

Sec. 30-33. Abandoned or unattended refrigerators, etc., prohibited.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, 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 unless such door or lid, snap lock or other locking device has been removed from such icebox, refrigerator or container or unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

(Code 1982, § 9.13)

State law reference— Refrigerators and iceboxes, Wis. Stat. § 167.25.

Secs. 30-34-30-50. Reserved.

Division 2. Use of firearms and dangerous weapons

State Law reference— Authority to regulate, Wis. Stat. § 66.0409; safe use and transportation, Wis. Stat. § 167.31; firearms, Wis. Stat. ch. 941; local regulation of hunting, Wis. Stat. § 29.038(3); Definition of firearm, Wis. Stat. § 167.31(1)(c); Definitions generally, § 1-2.

Sec. 30-51. Definition.

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

Building means a permanent structure used for human occupancy and includes a manufactured home, as defined in Sec. 101.91(2) Wis. Stats, but does not include any tent, bus, truck, vehicle or similar portable unit.

Dangerous Weapon means bow and arrow, crossbow, slingshot, blow gun, pellet gun, air rifle and other similar weapons.

Firearm means a weapon that acts by force of gunpowder.

Sec. 30-52. Use of firearms and dangerous weapons regulated.

- (a) *Exceptions.* The provisions of this Section shall not prohibit the discharge of Firearms and Dangerous Weapons in the following cases:
- (1) By a public official, including a law enforcement officer or police officer, in the lawful discharge of official duties.
 - (2) By a member of the Armed Forces of the United States or of the National Guard of the State of Wisconsin while in the lawful discharge of official duties.
 - (3) By a person in the lawful defense of his person or property.
 - (4) By a person at an approved target range or legal game preserve.
 - (5) The restriction on discharge of a Firearm does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stat. §939.45.

- (b) It shall be unlawful for any person to discharge any Firearm or Dangerous Weapon within the boundaries of the town in a careless and heedless manner and in willful and wanton disregard for the rights and safety of others, or without the due caution or in a manner so as to endanger or be likely to endanger property or any person.

- (c) It shall be unlawful for any person to use or discharge a Firearm or Dangerous Weapon:
 - (1) Within 300 feet of a Building without the express written permission of the person who owns the land on which the Building is located.
 - (2) Discharge a Firearm in or within 300 feet of any residential zoning district.
 - (3) Discharge a Firearm within a distance of 100 feet from the centerline of any public highway or public road surfaced with gravel, concrete or blacktop.
 - (4) In any public park, parking area or other area marked by signs prohibiting the discharge of Firearms or Dangerous Weapons.

Secs. 30-53 to 30-70. Reserved.

Division 3. Fireworks

Cross reference— Fireworks, § 14-431 et seq.
State Law reference— Fireworks, Wis. Stat. § 167.10.

Sec. 30-71. Fireworks prohibited.

No person shall sell, use, keep, discharge or explode any fireworks, except as provided in Section 14-431 et seq.

Sec. 30-72. Penalty.

A person, or a parent or legal guardian of a minor who consents to the use of fireworks by the minor, who violates this Division shall forfeit not more than \$1,000.00.

Secs. 30-73 to 30-90. Reserved.

Division 4. Obstructing, Loitering

Sec. 30-91. Obstructing streets and sidewalks prohibited.

No person shall stand, sit, loaf or 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 to or egress from any place of business or amusement, or any church, public hall or meeting place. (Code 1982, § 9.05)

Cross reference— Streets, sidewalks and other public places, ch. 38.

State law reference— Unlawful assembly, obstructing highway, Wis. Stat. § 947.06.

Sec. 30-92. Loitering.

- (a) *Loitering or prowling prohibited, generally.* No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this subsection, afford the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the person was true and, if believed by the police or peace officer at the time, would have dispelled the alarm.
- (b) *Obstruction of traffic by loitering.* No person shall loaf or loiter in a group or crowd upon the public streets, alleys, sidewalks, street crossings or bridges or in any other public place within the town in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, alleys, sidewalks, street crossings or bridges or other public places by persons passing along and over such public streets, alleys, sidewalks, street crossings or bridges or other public places.
- (c) *Loitering after being requested to move.*
- (1) *In groups or crowds.* No person shall loaf or loiter in a group or a crowd upon the public streets or sidewalks or in adjacent doorways or entrances, on 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 peace officer or by any person in authority at such places.
- (2) *In places of public assembly or use.* No person shall loiter, lounge or loaf in or about any depot, theater, dancehall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any peace officer. Upon being requested to move, a person shall

immediately comply with such request by leaving the premises or the area thereof.

- (3) *Obstructing highways.* No person shall obstruct any street, bridge, sidewalk or crossing by lounging or loitering in or upon the street, bridge, sidewalk or crossing after being requested to move on by any peace officer.

(Code 1982, § 9.07)

State law reference— Vagrancy, Wis. Stat. § 947.02.

Secs. 30-93 to 30-129. Reserved.

Article III. Sex Offender Restrictions

Sec. 30-130. Residency restrictions for sexual offenders.

- (a) *Findings and intent.* The town board finds that repeat sexual offenders who use physical violence and sexual offenders who prey on children, are sexual offenders who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses; and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

It is not the intent of the town board to punish sex offenders, but rather to serve the town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the town by creating areas around locations where children regularly congregate in concentrated numbers, wherein, certain sexual offenders are prohibited from establishing temporary or permanent residence.

Due to the high rate of recidivism for sexual offenders, and because reducing both opportunity and temptation would help minimize the risk of reoffense, there is a compelling need to protect children where they congregate or play in public places.

- (b) *Definitions.* The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except when the context clearly indicates a different meaning:
 - (1) *Child or Children* means person(s) under the age of eighteen (18) years for purposes of this Ordinance.
 - (2) *Crime Against Children* shall mean any of the following offenses set forth within the Wisconsin Statutes, as amended, or the laws of this or any other state or the federal government, having like elements necessary for conviction or adjudication, respectively: § 940.22(2) Sexual Exploitation by Therapist; § 940.30 False Imprisonment where victim was a minor and not the offender's child; § 940.31 Kidnapping where victim was a minor and not the offender's child;

§ 944.01 Rape (prior statute); § 944.06 Incest; § 944.10 Sexual Intercourse with a Child (prior statute); § 944.11 Indecent Behavior With a Child (prior statute); § 944.12 Enticing Child for Immoral Purposes (prior statute); § 948.02(1) First Degree Sexual Assault of a Child; § 948.02(2) Second Degree Sexual Assault of a Child; § 948.025 Engaging in Repeated Acts of Sexual Assault of the Same Child; § 948.05 Sexual Exploitation of a Child; § 948.055 Causing a Child to View or Listen to Sexual Activity; § 948.06 Incest with a Child; § 948.07 Child Enticement; § 948.075 Use of a Computer to Facilitate a Child Sex Crime; § 948.08 Soliciting a Child for Prostitution; § 948.095 Sexual Assault of a Student by School Instructional Staff; § 948.11(2)(a) or (am) Exposing Child to Harmful Material, felony sections; § 948.12 Possession of Child Pornography; § 948.13 Convicted Child Sex Offender Working with Children; § 948.30 Abduction of Another's Child; § 971.17 Not Guilty by Reason of Mental Disease, of an included offense; and § 975.06 Sex Crimes Law Commitment.

- (3) *Designated Offender* means any person who (1) has been convicted of a Crime Against Children; (2) has been adjudicated delinquent for a Crime Against Children; (3) is or was required to register under Section 301.45, Wisconsin Statutes, for any sexual offense; or (4) any person who is or was required to register under Section 301.45, Wisconsin Statutes, and who has been designated a Special Bulletin (SBN) sex offender pursuant to Sections 301.46(2) and (2m), Wisconsin Statutes.
- (4) *Juvenile* means a person under the age of eighteen (18) years.
- (5) *Permanent Residence* means a place where the Designated Offender lodges or resides for fourteen (14) or more consecutive days.
- (6) *Temporary Residence* means either: (a) a place where the person abides, lodges or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's Permanent Residence; or, (b) a place where the person routinely abides, lodges or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's Permanent Residence.
- (7) *Protected Location* means any Athletic Fields, Day Care Center, Library, Park, Place of Worship, Playground, Recreational Trail, School Property, and Swimming Pool, or any other place designated in the Map adopted by the Town under Section 30-130(c)(3) as a place where children are known to congregate. The defined terms included in the definition of Protected Location are:
 - a. *Athletic Fields* means fields used by Children for organized sporting activities. This definition includes all public athletic fields and private athletic fields if they are open to the public.
 - b. *Day Care Center* means a facility that has been licensed under Wis. Stat. § 48.65 to provide care and supervision of children and includes "before- and after-school daycare," which has the meaning as defined by Wis. Stat. § 120.125(1).

- c. *Library* means any library that is held open for use by the public where such library includes a collection of material specifically intended for use by children.
- d. *Park* means any area held open for use by the public for active or passive leisure purposes, including, but not limited to, any park, recreation area or beach. "Park" shall also mean any privately owned neighborhood parks and open spaces where children congregate such as those owned by a homeowners association of a subdivision.
- e. *Place of Worship* means a church, synagogue, mosque, temple or any other building where congregations gather for prayer.
- f. *Playground* means any public outdoor area set aside for recreation and play and includes any area with playground equipment including, but not limited to, swings, slides, sandboxes, and seesaws.
- g. *Private Places* means a property owned by a private person or entity but open to the public to provide a service and where children regularly congregate, whether supervised or unsupervised. For example and to show the intent of this definition: the restaurant and facility named Apple Holler, 5006 S. Sylvania Avenue in the Town of Yorkville.
- h. *School Property* means any public school as defined by Wis. Stat. § 115.01(1); a private school as defined by Wis. Stat. § 115.001(3); a charter school as defined by Wis. Stat. § 115.001(1); a specialty school, including, but not limited to, a Montessori school, a gymnastics academy, dance academy, or music school.
- i. *Swimming Pool* means where children swim or wade in a pool or other aquatic facility held open for use by the public or where no lifeguard is on duty and children are known to congregate.
- j. *Recreational Trail* means a trail where children regularly walk, ride bicycles, or ride horses, and that is dedicated to the public for recreational purposes.

(c) *Child Safety Zones.*

- (1) *Restrictions.* In absence of a court order specifically exempting a Designated Offender from the residency restriction in this subsection, a Designated Offender shall not establish a permanent or temporary residence within 1,000 feet of any Protected Location. No Designated Offender may establish a Permanent Residence or Temporary Residence within a one thousand (1,000) foot radius of an existing Permanent Residence or Temporary Residence of another Designated Offender. This one thousand (1,000) foot area is referred to herein as the "Child Safety Zone(s)".
- (2) *Determination of Minimum Distance Separation.* For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the nearest outer property line of the Permanent Residence or

Temporary Residence of a Designated Offender to the nearest outer property line of a Protected Location.

- (3) *Maps.* A map depicting the above Protected Locations and the resulting residency restriction distances known as Child Safety Zones shall be adopted by Resolution of the Town Board, and which map may be amended from time-to-time, is on file in the Office of the Town Clerk for public inspection. This Map is a tool that the Town chooses to utilize to provide notice to the public of the requirements of the Ordinance. In the event of a conflict between the Map and this Ordinance where a Protected Location is inadvertently omitted from the Map, the written provisions of this Ordinance shall control.
 - (4) *Original Domicile Restriction.* In addition to and notwithstanding the foregoing prohibitions, but subject to subsection (d) below, no Designated Offender shall be permitted to reside in the Town of Yorkville, unless such person was legally domiciled in the Town of Yorkville at the time of the offense resulting in the person's most recent conviction or delinquency adjudication for an offense under the definition of a Designated Offender.
 - (5) *Notification.* A Designated Offender must notify the Town Clerk a minimum of twenty-eight (28) days prior to establishing either a Permanent Residence or Temporary Residence within the Town of Yorkville.
- (d) *Residency restriction exceptions.* A Designated Offender residing within a Child Safety Zone as described in subsection (c)(3) does not commit a violation of this section if any of the following apply:
- (1) The person established a Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Wis. Stat. § 301.45, before the effective day of this section.
 - (2) The person was under 17 years of age and is not required to register under Wis. Stat. § 301.45 or 301.46.
 - (3) The Prohibited Location within 1,000 feet of the Designated Offender's Permanent Residence or Temporary Residence was opened after the person established the Permanent Residence or Temporary Residence and reported and registered the residence pursuant to Wis. Stat. § 301.45.
 - (4) The person is required to serve a sentence at a jail, juvenile facility or other correctional institution or facility located within a Child Safety Zone.
 - (5) The person is:
 - a. A Juvenile who was adjudicated delinquent of (or found guilty of) a Crime Against Children in juvenile court and placed with a guardian or meets the definition of a Designated Offender and placed with a guardian;
 - b. A Juvenile placed with a guardian; or

- c. A ward under guardianship and placed in accordance with the guardianship orders.

In such cases involving a Juvenile placed in accordance with this exception, when the Juvenile turns 18 years of age, the Juvenile would be allowed to continue to reside at the already established residence.

- (e) *Property Owners Prohibited From Renting Real Property To Certain Sexual Offenders and Sexual Predators.* It shall be unlawful for any property owner to lease or rent any place, structure, mobile home, trailer or any part thereof, with the knowledge that it will be used as a Permanent Residence or Temporary Residence by any Designated Offender prohibited from establishing a Permanent Residence or Temporary Residence therein pursuant to this Ordinance, if such place, structure, or mobile home, trailer or any part thereof, is located within a Child Safety Zone as defined in Subsection (c)(3) or if the residency is not in compliance with the original domicile restriction under Subsection (c)(4).
- (f) *Public Nuisance.* Any violation of this Chapter shall be deemed a public nuisance affecting peace and safety and the Town may proceed under Section 22-118 of the Code of Ordinances and/or Chapter 823 of the Wisconsin Statutes to abate the nuisance.
- (g) *Injunction for Violation of Residency Restrictions.* If a Designated Offender establishes a Permanent Residence or Temporary Residence in violation of subsection (c) above, the Code Enforcement Officer may refer the matter to the Town Attorney. The referral shall include a written determination by the Code Enforcement Officer that, upon all of the facts and circumstances and the purpose and intent of this Ordinance, such violation interferes substantially with the comfortable enjoyment of life, health, and safety of another or others. Upon such referral, the Town Attorney shall bring an action in the name of the Town in Circuit Court to permanently enjoin such residency as a public nuisance after review and approval by the Town Board.
- (h) *Severability.* Should any section, paragraph, sentence, clause or phrase of this Section be declared unconstitutional or invalid, or be repealed, it shall not affect the validity of this Ordinance as a whole, or any part thereof, other than the part so declared to be invalid or repealed.

Sec. 30-131. Loitering restrictions for sex offenders.

- (a) *Loitering.*
 - (1) *Offense.* It shall be unlawful for any Designated Offender as defined in subsection 30-130(b)(3), to loiter or prowl within 200 feet of a Protected Location as defined under Sec. 30-130(b)(7) of this Code or other location where children regularly congregate; in a place, at a time, or a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon appearance of a code enforcement officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object.

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

- (2) *Exceptions.* The prohibitions set forth in subsection (a) shall not apply where the actor was with his or her parent or other adult person having his or her care, custody or control; or the actor was exercising First Amendment rights protected by the United States Constitution, including freedom of speech, free exercise of religion and the right of assembly.

Sec. 30-132. Penalty.

- (a) A person who violates provisions of subsection 30-130 shall be subject to a forfeiture of not less than \$500.00 and no more than \$1,000.00 for each violation. Each day a violation continues shall constitute a separate offense. The Town may also seek equitable relief to gain compliance.
- (b) Any person violating subsection 30-131 shall forfeit not less than \$500.00 and no more than \$1,000.00 for each violation.

Sec. 30-133 to 30-134. Reserved.