

## **CHAPTER 8**

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**8.01 OFFENSES ENDANGERING PUBLIC SAFETY.**

**1. DISCHARGING AND CARRYING FIREARMS: PROHIBITIONS (Ord. 1758)**

To the extent not otherwise specifically permitted by Wisconsin Statutes:

(a) No person, except a Peace or Law Enforcement Officer or member of the Military in the line of duty as defined in Wisconsin Statutes, shall fire or discharge any firearm, rifle, spring gun, air gun (whether a missile is expelled by compressed air, gas or chemical) electric weapon, or paint ball gun within the Village of Whitefish Bay.

(b) No person, except a Peace or Law Enforcement Officer or member of the Military in the line of duty or person acting within the terms of a license to carry a concealed weapon as defined in Wisconsin Statutes, shall have any spring gun, air gun (whether a missile is expelled by air, gas, or chemical) electric weapon, or paint ball gun in his or her possession or under his or her control unless it is both unloaded and locked or enclosed within a carrying case or other suitable container .

(c) No person, except a Peace or Law Enforcement Officer or member of the Military in the line of duty as defined in Wisconsin Statutes, may carry, possess, or control a firearm within or directed at the confines of any Village owned structure including but not limited to the Village Hall, Police Department, Department of Public Works, Library, Fire Station, and structures at Water Tower, Klode , and Cahill Square parks.

**(2) THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.**

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means at any other person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village of Whitefish Bay except for purposes of hunting with a bow and arrow or crossbow in accordance with this subparagraph. Such bow and arrow or crossbow hunting (by point of arrow discharge, point of arrow landfall, or location of prey) shall be conducted with the consent of the owner of the property and no less than 100 yards from any Building located on another person's land. In addition, any person who hunts with a bow and arrow or crossbow must discharge the arrow or bow from the respective weapon toward the ground. 'Building' shall have the meaning provided in Section 29.038 Wis. Stats. as amended. (Ord. 1806)

**(3) SALE AND DISCHARGE OF FIREWORKS PROHIBITED.**

(a) It shall be unlawful for any person to have in his possession, sell, offer for sale, expose for sale, use, discharge, ignite or explode any blank cartridge, toy pistol or cannon, toy cane or toy cannon in which explosives are used, the type of balloon which requires fire underneath to propel the same, firecracker, torpedoes, sky rockets, Roman candles, aerial salutes, American or Chinese bombs or other fireworks of like construction, or any fireworks containing any

explosives or inflammable compound or any tablet or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulfides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other modern explosives within the limits of the Village of Whitefish Bay.

(4) TOY AIRPLANES REGULATED.

No person or persons shall operate or cause to be operated any toy or model airplane propelled by liquid fuel, gas fuel or by any other mechanical means except in an area designated for that purpose by the Village Board.

(5) OPEN BURNING

- (a) Open burning is prohibited in the Village of Whitefish Bay and no person, firm, corporation or other entity shall burn, cause to be burned, or suffer or allow to burn in the open air leaves, garden refuse, wood, refuse, or other combustible material.
- (b) This subsection shall not apply to:
  - 1. A charcoal or gas grill used in the cooking of food.
  - 2. A device for the burning of wood that is equipped with a metal hood and screen that completely encloses the area where wood is burned so as to prevent embers or sparks from exiting the device.
- (c) The exception allowed in Subsection 8.01(5)(b)(2) shall not apply during such times as the North Shore Fire Chief declares a ban on burning due to dry conditions.
- (d) The burning permitted in Subsection 8.01(5)(b)(2) shall be subject to the following conditions:
  - 1. Such devices shall not be used on porches or decks or within 10 feet of a dwelling, garage, or other accessory structure.
  - 2. Such devices shall not be used between the hours of 11:00 p.m. and 8:00 a.m.
  - 3. Such devices shall be tended by a competent person at all times combustion is occurring. To constitute being "tended," the device must be within the direct observation of the competent person taking care of the fire. (Ord. 1827)

(6) AIRCRAFT AND PARACHUTE LANDING. (Ord. 1638)

No person shall ascend or land with any aircraft, including gliders, balloons, helicopters and parachutes within the Village of Whitefish Bay. This Subsection shall

not apply to emergency landings nor to military or National Guard personnel.

(7) RUNNERS AND JOGGERS: REFLECTORIZED CLOTHING REQUIRED.  
(Ord. 1638)

(a) Reflectorized Clothing Required.

No person shall run or jog on a public right-of-way during the period of time specified in subsection (b) unless he or she is wearing reflectorized clothing or material, on both front and back.

(b) Time Applicable.

Subsection (a) shall be applicable during the period of time from one-half hour after sunset to one-half hour before sunrise and at all other times where there is not sufficient natural light to render clearly visible any person at a distance of 500 feet.

(8) REGULATION OF BUSINESS HOURS. Ord. 1638)

(a) Legislative Findings.

The Village Board of the Village of Whitefish Bay hereby finds as a fact that the conducting of retail business between 10:00 o'clock P.M. and 6:00 o'clock A.M. increases the likelihood of robbery and other criminal activity and that the mandatory closing of such business establishments between such hours will promote public safety and therefore legislation to this effect is necessary and in the public interest.

(b) Regulation.

No person, firm, corporation or other organization shall conduct retail business between the hours of 10:00 o'clock P.M. and 6:00 o'clock A.M.

(c) Exceptions.

This subsection (10) shall not be applicable to restaurants, movie theaters, nor any business where other specific hour restrictions are either imposed or allowed by state law. Ord 1372 3/87.

(1) Exercise Facilities-Exercise facilities in District 11 may, by conditional use permit, be allowed to operate between the hours of 5:00 A.M. and 1:00 o'clock A.M. (Ord 1761)

**8.02 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.**

(1) FALSE REPORTS PROHIBITED. (Ord. 1638)

No person shall give or send or cause to be given or sent in any manner any

alarm of fire which he knows to be false, or report in any manner to a policeman, coroner or peace officer that a crime has been or is being committed, or that an accident has occurred, or the dead body of any person has been found.

(2) ASSISTING ESCAPE OF PRISONER. (Ord. 1638)

No person shall intentionally aid any prisoner or person to escape from the lawful custody of a policeman or peace officer of the village.

(3) Repealed – Ord. 1640

(4) CRUELTY TO ANIMALS PROHIBITED. (Ord 1414) (Ord. 1638) (Ord 1684)

(A) Cruelty.

(1) No person shall cruelly beat, frighten, maim, neglect, injure or abuse any animal or bird, or allow any animal or bird to be cruelly beaten, frightened, overburdened, neglected or abused, or use any device or chemical substance by which pain, suffering or death may result, whether the animal belongs to the person or another, except that reasonable force may be used to drive off vicious or trespassing animals. Notwithstanding the foregoing, the Village Board may direct the Police Chief to permit or act to eradicate coyotes subject to whatever terms he/she deems appropriate.

(2) No person shall abandon or transport any animal or bird in a cruel manner.

(3) No person shall injure any bird's nests or bird's eggs.

(B) Food and Water.

No owner or caretaker of any animal or bird may neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal or bird in good health.

(C) Shelter.

(1) No owner or caretaker of any animal or bird shall fail to provide said animal or bird with shelter from inclement weather to insure the protection and comfort of the animal or bird.

(2) When sunlight is likely to cause overheating or discomfort to any animal or bird, the owner or caretaker shall provide shade by natural or artificial means to allow protection from the direct rays of the sun, but to still allow air to pass to keep the animal or bird cool.

(D) Area to Keep Clean.

Every owner or caretaker of any animal shall provide that the area where the animal is housed, or allowed to remain, shall be kept clean of feces, animal waste, and other substances in order to keep the animal healthy and comfortable.

(E) Leashes.

Whenever chains, ropes, or leashes are used, the owner or caretaker of the animal shall provide that the chains, ropes or leashes are placed or attached so that they cannot be entangled with another animal or object, and further that they be of sufficient length in proportion to the size of the animal to allow the animal the proper exercise and convenient access to food, water and shelter. A leash shall be located so as not to allow an animal to trespass on public or private property other than that of the owner, nor in such manner as to cause harm or danger to persons or other animals. A leash shall be located so as not to allow the animal to jump over an obstacle where the leash can become entangled and the animal choke.

(F) Enforcement.

The police department, health department or the humane society may enforce any provision of this section.

(G) Animal Removal.

The police department, health department or the humane society may confiscate and remove animals from any premises for violation of any part of this section. Animals removed because of such action may be stored in a humane manner by the health department, humane society or their designee. Probable cause that such a violation exists is sufficient reason to confiscate such animal. Conviction is not required.

(H) Exception.

This section does not apply to the extermination of rats, mice or other vermin.

(I) Relationship to Dog Regulations.

As applies to dogs, all of the provisions of this section are subject to the provisions of Section 15.11, relating to regulations of dogs.

(5) MACHINE NOISE PROHIBITED. (Ord. 1701)

(5) NOISE FROM MACHINES AND DEVICES PROHIBITED. (Ord. 1773)

Noise, when generated by any device, tool, implement, machine, appliance, or contrivance (including but not limited to power lawnmowers, snow removal equipment, vehicle backup alarms; radios, musical instruments, music players, power tools, television, audio/video, and internal combustion engines not on licensed motor vehicles), which creates a noise to the substantial disturbance or annoyance of any person (hereinafter "machine noise"), is prohibited during the following hours by noise type:

- (a) Within fifty (50) feet of any building used wholly or partially for residence purposes, machine noise is prohibited between 10:00 p.m. and 6:00 a.m.;
- (b) Except as otherwise permitted herein, snow plowing by means of vehicle driven snow removal equipment utilizing a back-up alarm is prohibited

in the Village between 10:00 p.m. and 6:00 a.m.

- (c) Snow plowing by means of vehicle driven snow removal equipment legally without the use of a backup alarm shall not be subject to any time restrictions.
  - (d) Within the public right-of-way or other municipal property or leasehold, in the pursuit of the rendition of municipal service or emergency services, machine noise shall not be subject to any time restrictions;
  - (e) Machine noise generated in reasonable response to any emergency situation or situation threatening the health, safety or welfare of an individual or the public at large as recognized by the Police Department, Village Manager, or North Shore Fire Department shall not be subject to any time restrictions; and
  - (f) Noise from machines or devices used in construction or remodeling of structures, equipment, landscaping, or landscape features between the hours of 5:00 p.m. and 7:00 a.m. (Ord. 1798)
  - (g) The Village Board or Village Manager may exempt specific events or activities from these machine noise prohibitions provided the health, safety, and welfare of the public at large is not substantially impacted. (Ord. 1798)
  - (h) The collection of Commercial Waste, as defined in Section 10.04 of the Municipal Code, within 50 feet of any building used wholly or partially for residence purposes, shall be prohibited between the hours of 10:00 pm and 7:00 am. (Ord. 1830)
- (6) LOUDSPEAKERS AND AMPLIFIERS PROHIBITED. (Ord. 1638)  
It shall be unlawful in this village to operate or cause to be operated any loud speaker or sound amplifier which is audible for a distance of one hundred feet from such instrument, or in a manner to interfere with or disturb the peace of any person in this village. The provisions of this subsection shall not apply to any loudspeaker or sound amplifier used during games, contests or other events sponsored by public authority or to warning signals given by public authority.
- (7) SHORE OF LAKE MICHIGAN. (Ord. 1638)
- (a) Shore Defined.  
The beach or shore of Lake Michigan, being the space between the high water mark and the low water mark of said lake, is hereby declared and established to be necessary for the protection of the bank of Lake Michigan in this village, and to prevent said bank from being washed away or falling in, and necessary for the preservation of all property, streets and parcels of land fronting on said lake, and all piers that have been or may be built upon the bank or beach of said lake, and for the proper and necessary depth of the water immediately off the shore of said lake.

(b) Removal of Sand, Etc., Prohibited.

No person shall remove or cause to be removed any sand, gravel, stone or earth from the beach or shore of Lake Michigan as defined in this section.

(c) Obstructions Prohibited.

No person shall construct any obstruction, barrier, gate or fence hindering the free and unobstructed access and passage of the public from the waters of Lake Michigan to said beach or shore of Lake Michigan as defined in this section, nor along said beach or shore.

(d) The shore of Lake Michigan as defined in subsection (a) shall be closed to the public from 9:00 P.M. to 6:00 A.M. and it shall be unlawful for any person to be on said shore during the hours when the shore is closed.

(8) DISTRIBUTION OF PRINTED MATERIAL. (Ord. 1638)

(a) The provisions of this section are declared necessary to protect, promote and conserve public health, welfare, morals and convenience.

(b) Restrictions Relating to Streets, Public Places, Automobiles, Etc.

Except as in this section otherwise provided, it shall be unlawful to distribute, place, attach or throw any newspaper, handbill, dodger, poster, circular, pamphlet or other printed or advertising material in or upon any part of any automobile or other motor vehicle while upon any street, alley or other public grounds, or upon any sidewalk, street, alley, park or other public place, or upon any parcel of ground which is vacant or unoccupied or which is occupied by a building obviously vacant or unoccupied within this village; this subsection shall not apply to any United States, state or other public officer or employee while engaged in performing his official duties as such, nor prevent the owner of such motor vehicle from displaying any advertising matter from his motor vehicle, when otherwise lawful.

(c) Restrictions on Distribution to Residences.

It shall be unlawful to distribute, place, attach, or throw any such material mentioned in subsection (b) into or upon any premises, lawn, yard, steps, driveway or other part of any building used for residence purposes, whose owner or occupant has filed with the Village Clerk-Treasurer an unrevoked written notice that he does not desire such material delivered to or upon the premises owned or occupied by him; provided, however, that such material may be deposited in a secure manner in an adequate receptacle provided by the owner or occupant of premises used for residence purposes for the receipt of said material other than a mail box, or may be securely fastened at the entrance of any such residence, except to the premises first above specified in this subsection.



(d) Newspapers, Etc.

The provisions of subsection (c) shall not apply to any of the following material provided the same be deposited in a secure manner in a receptacle provided by the owner or occupant of the premises other than the mail box or at the entrance of such residence: any newspaper or other publication containing news of a general nature and which is capable of being entered as second class material under the United States post office regulations, any material which is carried or delivered by the postal service of the United States, any monthly statement of account address or person even though such statement has advertising integral therewith, provided such advertising does not increase the normal dimensions of such statement, magazines being delivered to bona fide subscribers thereof, packages containing ordered material, public notices issued by public authorities, or any election advertising material.

(e) Crossing Lawns, Etc. Prohibited.

No person engaged in delivering or distributing any of the articles mentioned in this section shall cross any lawn or pass over or through any hedges or shrubbery of any premises used for residence purposes.

(9) MISCONDUCT ON PUBLIC GROUNDS (Ord. 985) & (Ord. 1638)

(a) No person shall commit any act in a public building or on grounds which interferes with the peaceful conduct of activities normally carried on in such building or on such grounds.

(b) Any person violating sub. (a) who refuses to leave such building or grounds upon request by the proper official or any person aiding, counseling or abetting another to violate sub. (a) shall be subject to the penalty provided in Section 17.04 of the Municipal Code of Whitefish Bay.

(c) In this section "public building" means any building that is a part of the Village School District and any building owned by the Village and used for any public purpose.

(d) Nothing in this section shall be construed to prohibit peaceful picketing or distribution of handbills, except as restricted by Subsection (14) of Section 8.02 of the Municipal Code of Whitefish Bay.

(10) PROHIBITION ON OBSTRUCTING OR OCCUPYING VILLAGE RIGHTS OF WAY AND VILLAGE PROPERTY. (Ord. 1698)

A. No person shall in any way, individually or by means of any object, thing, structure, facility, or instrumentality which that person owns, possesses, controls, directs, or influences, obstruct or occupy any street, alley, sidewalk, right of way, Village owned land, or other land dedicated to Village use unless an exception is granted by the Village.

B. Exceptions to this section may be granted by:

1. The Village Board subject to whatever terms it might require;
2. The Village Board in the form of a privilege pursuant to Sec. 66.0425, Wis. Stats. (as amended); or
3. The Village Manager, Police Chief, Village Engineer, or Building Inspector for periods of 180 days or less subject to whatever terms that official might require and subject further to the official making the following determinations.
  - (a) The proposed obstruction or occupancy is not inconsistent with the intent of this section to minimize such obstructions and occupancies;
  - (b) The proposed obstruction or occupancy will last for the minimum period practicable; and
  - (c) There are no feasible alternatives to the proposed obstruction or occupancy.

C. Exceptions granted under this section (other than privileges under Sec. 66.0425, Wis. Stats. [as amended]) may be revoked on ten (10) days notice at any time by the body or official (or their designee) that granted the exception in the first instance, or by such body or official or any Village Law Enforcement Officer or North Shore Fire Department Officer, at any time when the requirements imposed with the exception are not met, or if the body, official, or Officer determines that the continuation of the exception endangers public health and safety.

D. This section shall not apply to the legitimate and reasonable use of public property (subject to established rules and ordinances regarding such use) for the purpose for which it was intended.

E. In addition to any other penalties imposed for violations of this section, violators may be subject to the following:

1. Violations of this section which endanger public health and safety may be abated by, among other things, immediate removal by the Village of the violating persons, objects, etc.;
2. Violations of this section which do not present an immediate threat to public health and safety may be abated by the Village by removal or otherwise within 24 hours of notice provided by the Village;
3. The Village shall keep an accounting of the expense of any abatement, and such expenses shall be charged to and paid by the person or persons in violation. An invoice for abatement costs shall be mailed to the violator(s) and shall be payable within ten (10) calendar days. Within sixty (60) days after such costs and expenses are incurred and remain unpaid, and in addition to utilizing any other remedies, the Village Clerk may enter those charges onto the tax roll as a special tax as provided in Sec. 66.0627, Wis. Stats. (as amended) against any property the violator owns in the Village; and

4. The violator shall be subject to a civil forfeiture in an amount set by the Village Board from time to time for each day of violation of this section.

(11) THEFT BY FRAUD. (Ord. 1538) & (Ord. 1638)

It shall be unlawful to refuse to pay for a service provided in those situations where payment has been promised or there is an implied promise to pay immediately upon completion of the service provided.

(12)) REGULATION OF SKATEBOARDS AND OTHER PLAY VEHICLES (Ord. 1567)

(a) No person shall operate or ride a skateboard or other play vehicle as defined in Wis. Stats. 340.01 (43m) in any of the following places:

- (1) On any Village street;
- (2) On any sidewalk in the business district. For the purpose of this section, business district shall be defined as any area in Zoning District 6 or any other area primarily commercial in nature;
- (3) On any public property where signs prohibit it;
- (4) On private property, unless permission has been received from the owner, lessee or person in charge of that property.

(b) Operators or riders of skateboards and other play vehicles shall yield the right of way to pedestrians using Village sidewalks and shall not otherwise endanger or interfere with pedestrian traffic on those sidewalks.

(13) LOITERING OR PROWLING/PROHIBITED ACTS (Ord. 1706)

It shall be unlawful for any person to do any of the following acts within the limited of the village:

(a) Generally: 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 that may be considered in determining whether such alarm is warranted if the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or herself, or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity to dispel any alarm that would otherwise be warranted by requesting the person to identify himself or herself and explain his or her presence and conduct.

(b) Dwelling Areas: Hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, planned unit development, condominium project, hotel or motel, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a

clandestine manner.

(c) Public Restrooms: Loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.

(d) Schools: Loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

(e) Public Buildings: Lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.

(f) Restaurants, taverns: Loiter in or about any restaurant, tavern or other public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.

Section 8.03

### **8.03 OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY.**

#### **(1) GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.**

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the limits of the village. Any peace officer or policeman of the village is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the village and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling provided, however, that the prohibitions of this subsection shall not apply to any lottery authorized and administered by the State of Wisconsin pursuant to Wis. Stats, Chapter 565; provided, further that the prohibitions of this subsection shall also not apply to any bingo occasion or raffle authorized and licensed pursuant to Wis. Stats. 563. (Ord. 1530)

#### **(2) VAGRANCY AND LOITERING PROHIBITED.**

No person shall within the village loiter or loaf about any public building, place or premises or wander about the streets, alleys, parks or other public places either by day or night, whose actions give rise to a suspicion of wrongdoing and who is unable to give a satisfactory account of himself, or who, having the physical ability to work, is without any visible means of support and does not seek employment, or who derives part of his support from begging, prostitution, pandering, fortune telling or as a similar imposter.

#### **(3) INDECENT CONDUCT AND LANGUAGE PROHIBITED.**

No person shall use indecent, vile, profane or obscene language or conduct himself in any indecent, lewd, lascivious or obscene manner within the village.

**8.04 OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY.**

- (1) LITTERING PROHIBITED. (Ord. 1638)

No person shall throw, permit to be blown or fall, cast or deposit any glass, rubbish, waste, filth, ashes, dirt, mud, paper, tin cans, bottles, twigs, shrubs, garbage, litter or offensive or nauseous material of any type upon the streets, alleys, highways, public parks or other property of the village or upon any private property not owned by him, or upon the surface of any body of water within the Village of Whitefish Bay.

- (2) ANIMALS RUNNING AT LARGE PROHIBITED. (Ord. 1638)

No person shall permit any cat, dog, horse, mule, cattle, sheep, goats, swine or poultry in his possession or control to run at large within the Village.

- (4) Repealed – Ord. 1638

- (5) Repealed – Ord. 1638

Section 8.05

**8.05 OFFENSES AGAINST CERTAIN SECTIONS OF THE WISCONSIN STATUTES.**

- (1) Prohibitions: No person shall violate any misdemeanor provision found in Chapters 940 through 968 inclusive, 125 inclusive, and Secs. 101.123 and 134.66 of the Wisconsin Statutes, as amended from time-to-time. Such statutes are adopted by reference and made a part of this Code as if fully set forth. (Ord. 1638) (Ord. 1640)

- (2) Penalty: Any person who shall violate any provision of this section shall be subject to a penalty as provided in Section 17.04 of this code. A separate offense shall be deemed committed on each day on which a violation of any provisions of this section occurs or continues. (Ord. 1638)

**8.051 INSTRUMENTS USED FOR INJECTING OR INHALING CONTROLLED SUBSTANCES AND POSSESSION, USE AND SALE OF SYNTHETICS AND MIMICS OF CONTROLLED SUBSTANCES. (ORD. #1756)**

- (1) INTENT.

It is determined by the Village Board that the open display and availability for sale of simulated controlled substances and instruments used for inhaling or ingesting controlled substances in places of business within the Village suggests and encourages the illegal use of drugs and other controlled substances by the youth and all citizens of this community; that to protect the health and safety and general welfare of the youth and all citizens of this community it is necessary that the regulations herein provided be enacted.

(2) DEFINITIONS AS USED IN THIS SECTION.

- A. "Cocaine Spoon" is a spoon with a bowl so small that the primary use for which it is reasonable adopted or designed is to hold or administer cocaine, and which is so small as to be unsuited for the typical, lawful uses of a spoon. A cocaine spoon may or may not be merchandised on a chain and may or may not be labeled as a "cocaine" spoon or "coke" spoon.
- B. "Controlled Substance" means any drug, substance or immediate precursor enumerated in Scheduled I through V of the Uniform Controlled Substances Act found in Chapter 161 of the Wisconsin Statutes, and as such Schedules may from time to time be amended.
- C. "Drug" means;
1. Substances recognized as drugs in the Official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States or National Formulary or any supplementary to any of them.
  2. Substances intended for use in the diagnosis, cure, medication, treatment or prevention of disease in man or animals.
- Section 8.051 (2C)(3)
3. Substances (other than food) intended to affect the structure of any function of the body of man or animals.
  4. Substances intended for use as a component of any article specified in subsections 1, 2 and 3 above.
- D. "Drug Paraphernalia" means;
1. All equipment, products and materials of any kind which are intended for use, or designed for use, in planting, propagating, cultivation, 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 subsection (2) B. above. It includes, but is not limited to:
    - a. Kits 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 intended for use, or designed for use, in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
    - c. Isomerization devices intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.

- d. Testing equipment intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
- e. Scales and balances intended for use, or designed for use, in weighing or measuring controlled substances.
- f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, intended for use, or designed for use, in cutting controlled substances.
- g. Separation gins and sifters intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.
- h. Blenders, bowls, containers, spoons and mixing devices intended for use, or designed for use in compounding controlled substances.
- i. Capsules, balloons, envelopes and other containers intended for use, or designed for use, in packaging small quantities of controlled substances.

Section 8051 (2D) (1j)

- j. Containers and other objects intended for use, or designed for use, in storing or concealing controlled substances.
- k. Objects intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
  - (i) Water pipes;
  - (ii) Carburetion tubes and devices;
  - (iii) Smoking and carburetion masks;
  - (iv) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads, or punctured metal bowls;
  - (v) Roach clips, meaning 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;
  - (vi) Chamber pipes;
  - (vii) Carburetor pipes;
  - (viii) Electric pipes;

- (ix) Air-driven pipes;
- (x) Chillums;
- (xi) Bongs;
- (xii) Ice pipes or chillers;

2. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

- a. Statements by an owner, or by anyone in control of the object, concerning its use;
- b. The proximity of the object, in time and space, to a direct violation of this act, or any state or federal law relating to any controlled substance;

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- c. The proximity of the object to controlled substances;
- d. The existence of any residue of controlled substances on the object;
- e. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows intend to use the object to facilitate a violation of this act or any state or federal law relating to any controlled substance; the innocence of any owner, or of anyone in control of the object, as to a direct violation of such act or law, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia;
- f. Instructions, oral or written, provided with the object concerning its use.
- g. Descriptive materials accompanying the object which explain or depict its use;
- h. National and local advertising concerning its use.
- i. The manner in which the object is displayed for sale;
- j. Direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise;



- k. The existence and scope of legitimate uses for the object in the community;
    - l. Expert testimony concerning its "use".
- E. "Marijuana or Hashish Pipe" means a pipe characterized by a bowl which is so small that the primary use for which is reasonably adapted or designed is the smoking of marijuana or hashish, rather than lawful smoking tobacco, and which may or may not be equipped with a screen.
- F. "Manufacturer" shall have the same meaning as given to it by Section 161.01 (13) of the Wisconsin Statutes.
- G. "Patient" means the individual for whom a drug is prescribed or for whom a drug is administered; or the owner or the agent of the owner of the animal for which a drug is prescribed or to which a drug is administered; provided that the prescribing or administering referred to in this subsection is in good faith and in the course of professional practice only.
- H. "Person" means any individual, corporation, business trust, estate, partnership or association or any other legal entity.

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- I. "Practitioner" shall have the same meaning as given to it by Section 161.01 (19) of the Wisconsin Statutes.
- J. "Pharmacist" shall have the same meaning as given to it by Section 450.07 (l) (e) of the Wisconsin Statutes.
- K. "Prescription" means a written order (or an oral order later reduced to writing) by a practitioner for a prescription drug for a particular patient which specifies the date of its issue, the name and address of such practitioner, the name and address of the patient and the name and quantity of the prescription drug prescribed, directions for use of the drug, and in case of a written order, the signature of the practitioner.
- L. "Simulated Drugs" and "Simulated Controlled Substances" are any products which identify themselves by using a common name and slang term associated with the controlled substance or indicate by label or accompanying promotion material that the product simulates the effect of a controlled substance or drug.
- M. "Wholesaler" shall have the same meaning as given to it by Section 450.07 (1) (h) of the Wisconsin Statutes.

(3) SALE AND DISPLAY OF INSTRUMENTS AND SIMULATED CONTROLLED SUBSTANCES PROHIBITED.

A. It shall be unlawful for any person to possess, consume, purchase, display for sale, attempt to sell, sell, give, barter, use, or distribute, any

simulated controlled substance, any synthetic version of any controlled substance as defined in Chapter 961 Wis. Stats. as amended, or any other substance which when consumed mimics the physical, psychological, intoxicating, narcotic, or other effects of a controlled substance as defined in Chapter 961 Wis. Stats. as amended, including but not limited to butyl nitrate, synthetic cannabinoids, including but not limited to cannabicyclobexanol, JWH-018, JWH-073, and HU-210, JWH-200, CP 47 497, JWH-081, JWH-250, piperazine-some trade or other names; TFMPP; or any similar structural analogs, anything commonly referred to as K2, K3, K4, Spice, Genie, Yucatan Fire, Dascents, Zohal, sage, Pep Spice, Solar Flare, KO Knockout 2, Spice Gold, Spice Diamond, Yucatan Fire, Fire N Ice, fake or new marijuana, or by any other name, label or description. (Ord. 1756)

B. Prohibition in this Section Shall not Apply to:

1. The display of any such items as a place of display for education or scientific purposes;
2. Manufacturers, wholesalers, pharmacists, practitioners engaged in normal, lawful course of their respective business or profession, nor to patients possessing such materials pursuant to a valid prescription or suffering from diabetes or any other medical condition requiring self-  
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3. injection, nor to warehousemen or their employees engaged in the lawful transportation of simulated controlled substances or instruments, nor to public officers or employees while engaged in the performance of their official duties.

C. PENALTY:

Any person who shall violate any provision of this section shall be subject to a penalty as provided in section 17.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of any provisions of this section occurs or continues.

(4) SEVERABILITY: In the event that any provision of this Ordinance is for any reason held to be invalid, unconstitutional, or unenforceable by any court of competent jurisdiction, such portions of this Ordinance shall be deemed separate, distinct, and independent provisions of the Ordinance and all remaining portions of this Ordinance shall remain in full force and effect. (Ord. 1756)

**8.052 TRUANCY** (Ord. 1575)

1. PROHIBITION AGAINST HABITUAL TRUANCY. Any person between the ages of 6 and 18 years attending school in the Village of Whitefish Bay, subject to the expectations under Wis. Stats. Section 118.15, is prohibited from becoming a habitual truant as defined in this section. Any Village police officer is authorized to issue a citation to any such person who is determined to be a habitual truant under this section.

2. DEFINITION OF "HABITUAL TRUANT". A pupil who is absent from school without an acceptable excuse under Wis. Stats. Section 118.15, for part or all of 5 or more days on which school is being held during a school semester. (Ord. 1602)

3. PRECONDITIONS TO ISSUANCE OF CITATION. Prior to the issuance of any citation, the Whitefish Bay School District Attendance Officer shall provide evidence to the Whitefish Bay Police Department that appropriate school personnel in the school in which the child is enrolled have complied with the requirements of Wis. Stats. 118.16 (5).

4. FORM OF CITATION. Any citation issued shall be returnable in the Municipal Court in the same manner as all other ordinance citations are returnable. The citation is to state on its face that this is a "Must Appear" citation and forfeiture amount is to be written on the face of the citation.

5. FINDING AND DISPOSITION. Upon finding the child habitually truant, the Municipal Court shall impose one or more of the following dispositions:

- a. Suspension of Operating Privileges. Suspend the child's operating privileges for not less than 30 days nor more than one year. The Judge shall immediately take possession of the suspended license and forward it to the State Department of Transportation, together with a notice setting forth the reason for, and the duration of, the suspension. (Ord. 1602)
- b. Counseling, Service or Work Program. Order the child to participate in counseling, community service or a supervised work program under Wis. Stats. Section 938.54 (5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both. (Ord. 1602)  
Section 8.052 (5c)
- c. In-House Restraint. Order the child to remain at home, except for the hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit the child to leave the home if the child is accompanied by a parent or guardian.
- d. Educational Program. Order the child to attend an educational program under Wis. Stats. 938.34 (7d).
- e. Revocation of Work Permit. Order the Department of Work Force Development to revoke, under Wis. Stats. 103.72, a permit under Wis. Stats. 103.70 authorizing the employment of the juvenile.
- f. Teen Court Program. Order the child to be placed in a teen court program pursuant to provisions of Wis. Stats. 938.342 (f)(1)(2)(3).

- g. Attend School. Order the child to attend school. (Ord. 1602)
- h. Forfeiture. Impose a forfeiture of not more than \$500 plus costs, subject to Wis. Stats. Section 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parent or guardian of the person, or both. (Ord. 1602)
- i. Curfew. Order the child to comply with any other reasonable conditions that are consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other juveniles or adults. (Ord. 1602)
- k. Parent Counseling. If the Judge finds that the child violated this ordinance, the Judge may, in addition to or instead of the other dispositions under this subsection, order the child's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both. (Ord. 1602)

6. CONTRIBUTING TO TRUANCY. Any person 18 years of age or older is prohibited from performing any act of commission or omission, which act knowingly encourages or contributes to a child's truancy from school.

7. DEFINITION OF "ACT OF COMMISSION OR OMISSION." Anything that contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be truant.

**8.055 PARTIES TO MUNICIPAL ORDINANCE VIOLATIONS:**

(1) Whoever is concerned in the commission of a municipal ordinance violation is a principal and may be charged with and convicted of the commission of the violation although he did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other degree of crime or ordinance violation, or some other crime or ordinance violation based on the same act.

(2) A person is concerned in the commission of a municipal ordinance violation if he; (Ord. 1347)

- (a) Directly commits the ordinance violation; or
- (b) Intentionally aids and abets the commission of it; or
- (c) Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it. Such a party is also concerned in the commission of any other municipal ordinance violation which is committed in pursuance of the intended violation and which under the circumstances is a natural and probable consequence of the intended offense. This paragraph does not apply to a person who voluntarily changes his mind and no longer desires that the violation be committed and notifies the other parties concerned of his withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

**8.06 PENALTY:**

All persons shall obey and comply with the provisions of any ordinance or resolution adopted or proclamation issued pursuant to the authority of section 1.19 of this code. Any person violating this section shall be subject to penalty as provided by section 17.04 of this code. As and for a further penalty for any violation of this or any other provision in the Municipal Code, the Village Board hereby empowers the Village Manager or designee to, after providing notice in person or via United States mail to the last known owner of the property at least two (2) business days in advance, perform such work on said property as is required to render the property compliant with the Municipal Code. The reasonable cost of such work shall be billed to the last known property owner and such bill shall be due and payable within fifteen (15) days after it has been mailed. Amounts due after said period of time shall be delinquent and shall become a lien upon the property and may be placed on the tax bill of the property in question as a special charge for current services as provided in § 66.0627 Wis. Stats. (Ord. 1781)

## **8.07 DISCRIMINATION IN HOUSING.**

### (1) DEFINITIONS:

In this Section, unless the context requires otherwise:

- (a) "Housing" means any improved property which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.
- (b) "Discriminate" and "discrimination" means to segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, handicap, religion, national origin, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry. It is intended that the factors set forth herein shall be the sole basis for prohibiting discrimination.
- (bm) "Handicap" means any physical disability or developmental disability as defined under Wis. Stats. s. 51.01(5) (a).
- (c) "Unimproved residential lot" means any residential lot upon which no permanent building or structure containing living quarters has been constructed.

### (2a) DISCRIMINATION PROHIBITED.

It is unlawful for any person to discriminate:

- (a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.
- (b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.
- (c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
- (d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.
- (e) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling.
- (f) By refusing to renew a lease, causing the eviction of a tenant from

rental housing or engaging in the harassment of a tenant.

(2b) EXCEPTIONS.

- (a) Nothing in this Section shall prohibit discrimination on the basis of age in relation to housing designed to meet the needs of elderly individuals.
- (b) Nothing in this Section shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.
- (c) Nothing in this Section shall prohibit the development of housing designed specifically for persons with a handicap and discrimination on the basis of handicap in relation to such housing.

(3a) REPRESENTATIONS DESIGNED TO INDUCE PANIC SALES.

It is unlawful to induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin or economic status, or by representations to the effect that such present or prospective entry will or may result in;

- (a) the lowering of real estate values in the area concerned.
- (b) a deterioration in the character of the area concerned.
- (c) an increase in criminal or antisocial behavior in the area concerned; or
- (d) a decline in the quality of the schools or other public facilities serving the area.

(3b) INTERFERENCE, COERCION OF INTIMIDATION.

No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this Section or with any person who has aided or encouraged another person in the exercise or enjoyment of any right granted or protected by this Section.

(3c) REQUIRING REFERENCES.

Nothing in this Section shall be deemed to prohibit an owner, or agent, from requiring that any person who seeks to buy, rent or lease housing supply information concerning family, marital, financial and business status but not concerning race, color, physical condition, or developmental disability as defined in Wis. Stats. s. 51.01 (5) or creed

(4) HOUSING COMMISSION.

- (a) There is hereby created a Whitefish Bay Housing Commission. This commission shall consist of five members appointed by the President and confirmed by the Village Board. Each of said members shall be a resident of the Village. No person shall be a member of the Commission until he has filed with the Villager Clerk-Treasurer a written acceptance of his appointment.
- (b) The original members shall be appointed for a term expiring April 30, 1968. For the terms beginning May 1, 1968, in appointing the five members the President shall designate one of said members for a term expiring April 30, 1969, another for a term expiring April 30, 1970, another for a term expiring April 30, 1971, another for a term expiring April 30, 1972, and the fifth and final member for a term expiring April 30, 1973. After this original appointment, all term shall be for a five year period commencing May 1st and expiring April 30th.
- (c) Even though the term of a member has expired pursuant to the above provisions, he shall continue as a member until his successor is appointed and accepts his appointment.
- (d) Any member may be removed from the Commission at any time with or without cause by a two-thirds vote of the members elect of the Village Board.
- (e) In the event of a vacancy caused in any manner, a person appointed shall be for the unexpired term.

(5) HOUSING COMMISSION TO ADMINISTER.

This section shall be administered by the Housing Commission. The Commission may promulgate such rules, subject to approval of the Village Board, as are necessary to carry out this section. No publicity shall be given a complaint in those cases where the Commission obtains compliance with this section or the Commission finds that the complaint is without foundation.

(6) HOUSING COMMISSION POWERS.

- (a) The Housing Commission may receive and investigate complaints charging violations of this section in the same manner as the Police Department or District Attorney. A complaint shall be a written statement of the essential facts constituting the discrimination charged, and shall be verified.
- (b) If the Commission finds probable cause to believe that any discrimination has been or is being committed in violation of this section, it shall immediately endeavor to eliminate such discrimination by conference, conciliation and persuasion.



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- (c) In those cases where the Commission obtains compliance with this ordinance by the elimination of such discrimination or where the Commission finds that the complaint is without foundation, no public disclosure shall be made of the names of the person or persons named in the complaint.
- (d) In those cases where the Commission, after investigation as above provided, believes a violation of this section of the Village Code has occurred and has not been eliminated or remedied, the Commission may on behalf of the Village cause an action to be brought in Municipal Justice Court for a forfeiture for violation of this section of the Village code. A complaint or affidavit in the usual form alleging a violation of a Village ordinance may be signed by any member of the Commission provided a resolution authorizing such action has been adopted at a meeting of the Commission by the affirmative vote of not less than three of its members. The complaint or affidavit may be made on information and belief.
- (e) In those cases where the Commission is of the opinion that an existing violation of this section of the Village Code is not only a violation of this Code but is also a violation of any state statute now or hereafter adopted, the Commission by the affirmative Vote of not less than three of its members may, instead of bringing proceedings for violation of this section of the Village Code, refer the matter to the appropriate state officer or agency for proceedings pursuant to the state law.

(7) ACTION BY COMPLAINANT.

The person originally making the complaint pursuant to (6) (a) above may bring an action in Municipal Justice Court for a forfeiture for violation of this section of the code, under the following conditions.

- (a) When he disagrees with the determination of the Commission that no violation has occurred; or
- (b) When he disagrees with the Commission that following their investigation and conferences that the alleged violation has been eliminated or remedied; or
- (c) After a period of sixty (60) days from the filing of the complaint, if the Commission has neither determined that a violation exists or has failed to remedy such alleged violation.

(8) RESTRICTION.

No one is authorized to bring any action for a forfeiture based on an alleged violation of this section of the Village Code except

- (a) for members of the Commission acting pursuant to Section (6) (d) above, or
- (b) A Complainant acting pursuant to Section (7) above.

(9) CHAIRMAN.

The members of the initial Commission shall elect a chairman and vice-chairman for a term expiring April 30, 1968. Thereafter, each May members of the Commission shall elect a chairman, and a vice-chairman. It shall be the chairman's duty, and in his absence the vice-chairman's duty, to conduct meetings of the Commission. The chairman and vice-chairman shall continue to vote as members of the Commission.

(10) SECRETARY.

The Village Clerk-Treasurer, or such other village employee as the Clerk-Treasurer may designate, shall act as Secretary of the Commission, keeping such minutes and other records and typing such correspondence as may be reasonably required by the Commission or any member thereof in the performance of its duties. Except for the expense so incurred in connection with the Secretary of the Commission performing his duties, the Commission shall incur no expense which is the obligation of the Village without express prior approval by the Village Board. The Secretary has no vote.

(12) REQUIRING REFERENCES.

Nothing in this section shall be deemed to prohibit an owner or his agent or a lessee seeking to sublease or assign his lease from requiring that any person who seeks to buy, rent, lease, finance, or construct housing supply information concerning his family, marital, financial, and business status, but not concerning race, color, or creed.

(13) PENALTY.

Any person who willfully violates any provisions of this section shall, for each such violation, forfeit not less than \$10.00 nor more than \$200.00. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal.

(14) PUBLIC POLICY.

This section of the Village Code was adopted, among other things, for the purpose of furthering the public policy of the state as set forth in Sections 66.432, 66.433 and 101.60 of the Wisconsin Statutes.

(15) If any provisions of Sections (5) or (6) (c) of this ordinance are declared invalid, such invalidity shall affect and render invalid all other provisions of this ordinance.

## **8.071 SEX OFFENDER RESIDENCY**

1) *Definitions.* As used in this section and unless the context otherwise requires:

a) A *Sexually Violent Offense* shall have the meaning as set forth in Wis. Stats. § 980.01(6).

b) A *Crime Against Children* shall mean any of the following offenses set forth within the Wisconsin Statutes, or the laws of this or any other state or the federal government, having like elements necessary for conviction, respectively:

§ 940.225(1) First Degree Sexual Assault;  
§ 940.225(2) Second Degree Sexual Assault;  
§ 940.225(3) Third Degree Sexual Assault;  
§ 940.22(2) Sexual Exploitation by Therapist;  
§ 940.30 False Imprisonment-victim was minor and not the offender's child;  
§ 940.31 Kidnapping-victim was 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)(x) 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.

c) *Person* means a person who has been convicted of or has been found delinquent of or has been found not guilty by reason of disease or mental defect of a Sexually Violent Offense and/or a Crime Against Children.

d) *Residence("reside")* means the place where a Person sleeps, which may include more than one location, and may be mobile or transitory.

2) *Residency restrictions.* A Person shall not reside within the Village within 1,750 feet of the real property comprising any of the following (whether located within the Village or not):

a) Any facility for children (which means a public or private school, a group home, as defined in Wis. Stats. § 48.02(7), a residential care center for children and youth, as defined in Wis. Stats. § 48.02(15d), a shelter care facility, as defined in Wis. Stats. § 48.02(17), a foster home, as defined in Wis. Stats. § 48.02(6), a treatment foster home, as defined in Wis. Stats. § 48.02(17q), a day care center licensed under Wis. Stats. § 48.65, a day care program established under Wis. Stats. § 120,13(14), a day care provider certified under Wis. Stats. § 48.651, or a youth center, as defined in Wis. Stats. § 961.01(22); and/or

b) Any facility used for:

- 1) A public park, parkway, parkland, park facility, nature preserve;
- 2) A public swimming pool or beach;
- 3) A public library;
- 4) A recreational trail;
- 5) A public playground;
- 6) A school for children;
- 7) Athletic fields used by children;
- 8) A movie theatre;
- 9) A daycare center;
- 10) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school;
- 11) Temples, churches, mosques, synagogues or other houses of worship;  
and
- 12) Community based residential facility, home for more than eight disabled individuals or home for the elderly.

The distance shall be measured from the closest boundary line of the real property supporting the residence of a Person to the closest real property boundary line of the applicable above enumerated use(s). A map depicting the above enumerated uses and the resulting residency restriction distances, as amended from time to time, shall be kept on file in the office of the Village Clerk for public inspection.

- 3) *Residency restriction exceptions.* A Person residing within 1,750 feet of the real property comprising any of the uses enumerated in subsection (2) above, does not commit a violation of this section if any of the following apply:
  - a) The Person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility.
  - b) The Person has established a residence prior to the effective date of this section (August 4, 2014), which is within 1,750 feet of any of the uses enumerated in subsection (2) above, or such enumerated use is newly established after such effective date and it is located within such 1,750 feet of a residence of a Person which was established prior to the effective date of this section.
  - c) The Person is a minor residing with a parent or legal guardian who serves as parent or legal guardian to no more than one Person.
- 4) *Original domicile restriction.* In addition to and notwithstanding the foregoing, but subject to subsection (3) above, no Person and no individual who has been convicted of a Sexually Violent Offense and/or a Crime Against Children, shall be permitted to reside in the Village, unless such Person was domiciled in the Village at the time of the offense resulting in the Person's most recent conviction for committing the Sexually Violent Offense and/or Crime Against Children.
- 5) *Child safety zones.* No Person shall enter or be present upon any real property in the Village upon which there exists any facility used for or which supports a use of:
  - a) A public park, parkway, parkland, park facility or nature preserve;
  - b) A public swimming pool or beach;
  - c) A public library;
  - d) A recreational trail;
  - e) A public playground;
  - f) A school for children;
  - g) Athletic fields used by children;
  - h) A movie theatre;
  - i) A daycare center;
  - j) Any specialized school for children, including, but not limited to, a gymnastics academy, dance academy or music school;
  - k) Aquatic facilities open to the public; and
  - l) Any facility for children (which means a public or private school, a group home, as defined in Wis. Stats. §48.02(7), a residential care center for children and youth, as defined in Wis. Stats. §48.02(15d), a shelter care facility, as defined

in Wis. Stats. § 48.02(17), a foster home, as defined in Wis. Stats. §48.02(6), a treatment foster home, as defined in Wis. Stats. §48.02(17q), a day care center licensed under Wis. Stats. §48.65, a day care program established under Wis. Stats. §120.13(14), a day care provider certified under Wis. Stats. §48.651, or a youth center, as defined in Wis. Stats. §961.01(22).

A map depicting the locations of the real property supporting the above enumerated uses, as amended from time to time, shall be kept on file in the office of the Village Clerk for public inspection.

- 6) *Child safety zone exceptions.* A Person does not commit a violation of subsection (5) and the enumerated uses may allow such Person on the property supporting such use if any of the following apply:
- a) The property supporting an enumerated use under subsection (5) also supports a church, synagogue, mosque, temple or other house of religious worship (collectively "church"), subject to the following conditions:
    - 1) Entrance and presence upon the property occurs only during hours of worship or other religious program service as posted to the public;
    - 2) Written advance notice is made from the Person to an individual in charge of the church and approval from an individual in charge of the church as designated by the church is made in return, of the attendance by the Person; and
    - 3) The Person shall not participate in any religious education programs which include individuals under the age of 18.
  - b) The property supporting an enumerated use under subsection (5) also supports a use lawfully attended by a Person's natural or adopted child/children, which child's use reasonably requires the attendance of the Person as the child's parent upon the property, subject to the following conditions:
    - 1) Entrance and presence upon the property occurs only during hours of activity related to the use as posted to the public; and
    - 2) Written advance notice is made from the Person to an individual in charge of the use upon the property and approval from an individual in charge of the use upon the property as designated by the owner of the use upon the property is made in return, of the attendance by the Person.
  - c) The property supporting an enumerated use under subsection (5) also supports a polling location in a local, state or federal election, subject to the following conditions:

- 1) The Person is eligible to vote;
  - 2) The designated polling place for the Person is an enumerated use; and
  - 3) The Person enters the polling place property, proceeds to cast a ballot with whatever usual and customary assistance is provided to any member of the electorate; and the Person vacates the property immediately after voting.
- d) The property supporting an enumerated use under subsection (5) also supports an elementary or secondary school lawfully attended by a Person as a student, under which circumstances the Person who is a student may enter upon that property supporting the school at which the Person is enrolled, as is reasonably required for the educational purposes of the school.
- 7) *Violations.* If a Person violates subsection (2) above, by establishing a residence or occupying residential premises within 1,750 feet of those premises as described therein, without any exception(s) as also set forth above, the Village Attorney, upon referral from the Chief of Police and the written determination by the Chief of Police that upon all of the facts and circumstances and the purpose of this section, such residence or occupancy presents an activity or use of property that interferes substantially with the comfortable enjoyment of life, health, safety of another or others, shall bring an action in the name of the Village in the Circuit Court for Milwaukee County to permanently enjoin such residency as a public nuisance. If a Person violates subsection (5), in addition to the aforesaid injunctive relief, such Person shall be subject to the general penalty provisions set forth under Chapter 17 of this Code. Each day a violation continues shall constitute a separate offense. In addition, the Village may undertake all other legal and equitable remedies to prevent or remove a violation of this section.

Section 8.08

**8.08 PUBLIC PARKS.** (Ord. 1473)

- (a) The public parks of the Village of Whitefish Bay, Klode Park and Buckley Park, shall be open to the public from sunrise to 9:00 P.M. and it shall be unlawful for any person to be in or upon said park property from 9:00 P.M. to sunrise.
- (b) Rules Applicable to Both Klode Park and Buckley Park.
  - (1) No bicycles, skateboards, scooters, roller skates, roller blades or any motorized vehicles are allowed below the top of the bluff.
  - (2) No cooking grilles are allowed, except at events officially

sanctioned by the Village Board.

- (3) Picnicking is allowed on all grass areas on the top of the bluff. Littering is not permitted.
- (4) The launching, landing or beaching of boats, rafts, sailboards, canoes or similar devices is prohibited. No such device is allowed below the top of the bluff.
- (5) Sledding, tobogganing, skiing and the use of any other form of downhill locomotion on snow (other than on foot) on the hill below the top of the bluff is prohibited.

(c) Further Rules Applicable to Klode Park.

- (1) No person shall be allowed on the three rock breakwaters at any time.
- (2) Swimming will be at the individual's own risk. Swimming is allowed in the designated swimming area only. (Ord. 1680)
- (3) Children under 10 years of age must be accompanied by an adult or swimmer at least 14 years of age.
- (4) One-person flotation devices are allowed, but these devices may be restricted by the lifeguard at any time.
- (5) No fishing is allowed in the designated swimming area at any time. (Ord. 1680)
- (6) No boats are permitted within 50 feet of the rock breakwaters.



(d) Further Rules Applicable to Buckley Park.

- (1) No swimming shall be allowed.
- (2) No boats are permitted within 50 feet of the groin.

(e) Cahill Square shall be open to the public during the hours of 6:00 A.M. to 10:00 P.M. and it shall be unlawful for any person to be in or upon said property during the hours of 10:00 P.M. to 6:00 A.M. (ord 1439)

(f) Milwaukee County Regulations Adopted (Ord. 1682)

Chapter 47 of the Milwaukee County Code of General Ordinances, exclusive of any provisions therein relating to the penalties to be imposed for the punishment for violations of that chapter, is herewith adopted by reference and made a part of this chapter as though more fully set forth herein. The sections and subsections of Chapter 47 of the Milwaukee County Code of General Ordinances are herewith adopted as sections and subsections of this chapter of the Whitefish Bay Municipal Code. Any act required to be performed or prohibited by Chapter 47 of the Milwaukee County Code of General Ordinances incorporated herein by reference is required or prohibited by this Code.

(g) No person may possess, or bring into any Village park or parkway any alcoholic beverages, except with the approval of the Village Board. (Ord. 1708)

(h) Use of Village parks for profit activities shall be subject to the following requirements: (Ord. 1751)

(1) No person shall allow or conduct a for-profit activity involving more than 10 people within any park facility unless a permit has first been obtained. If Village services are requested, a Special Event Permit is also required.

(2) Applications for for-profit use of any park facility shall be made to the Village Clerk, on forms provided for that purpose, and shall include at a minimum the following information:

(a) Name, address & telephone number of the applicant.

(b) A contact person who will be available at all times during the for-profit use and that person's cell phone number, which must be accessible throughout the for-profit use.

(c) Location at which the for-profit use is to be conducted,

which shall be adjusted by the Village Manager or his/her designee to minimize adverse impact on surrounding properties, reduce potential damage to park grounds and facilities, and minimize conflict with other park users.

(d) Details related to the nature of the for-profit use, including the hours and/or dates of the for-profit use and the anticipated number of for-profit use attendees / participants.

(3) The Village Manager or his/her designee may include specific conditions to protect the public safety and welfare, and which may require clean-up or damage repair of public or private property in the vicinity of the location of the for-profit use. A cash deposit may be required as a condition to assure such clean-up or damage repair is satisfactorily accomplished within 24 hours of the end of the event.

(4) Completed applications must be submitted to the Village Clerk at least 30 days prior to the scheduled date of the for-profit use.

(5) The granting of a for-profit use permit does not reserve any park facilities for the exclusive use of the permit applicant. All park facilities shall remain open for public use during the permitted for-profit use activities.

(6) The Village Board may require fees for the use of specific activities in the parks as listed in the adopted fee schedule on file in the Village Clerk's office.

(7) The Village Manager, Police Chief or North Shore Fire Chief may suspend or terminate a permit at any time if public safety or the public welfare is compromised or threatened, or if the conditions of the permit are violated.

**8.09 TRESSPASS ON PUBLIC OR PRIVATE SCHOOL PROPERTY. (Ord. 1626)**

1. No person shall be upon any real property owned or permanently used by the School District of the Village of Whitefish Bay, or any private school ("School Property") unless:

- (a) authorized by the proper authorities;
- (b) attending a regularly scheduled or officially sanctioned program or function being held on School Property;
- (c) having official and legitimate business on School Property;
- or
- (d) for recreational purposes provided such use does not interfere with sanctioned school activities, official school business or classroom instruction and is consistent with posted hours and is in compliance with any school rules and regulations.

2. Any student who is suspended or currently expelled from school shall remain a distance of 1,000 feet away from any School Property while school is in session, unless officially requested by proper authorities, to be present on the School Property. This sub paragraph shall not apply if the student resides or works within 1,000 feet of the School Property; except that such student shall remain off School Property while suspended or expelled.

**8.10 PENALTY.**

Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in section 17.04 of this code, in addition to any specific penalty provided herein. A separate offense shall be deemed committed on each day on which a violation of any provision of this chapter occurs or continues.