

Chapter 54

OFFENSES AND MISCELLANEOUS PROVISIONS*

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ARTICLE I. IN GENERAL

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

The following statutes are adopted by reference and incorporated in this section, except for the penalty provision, which shall be governed by section 1.111.

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

Wis. Stats. § 943.37	(Alteration of property identification marks)
Wis. Stats. § 943.41(2), (3)(a)-- (d), (4)(b)	(Financial transaction card crimes)
Wis. Stats. § 943.45(1), (2), (3)(a), (b)	(Obtaining telecommunication service by fraud)
Wis. Stats. § 943.455(1), (2), (4)(a), (b)	(Theft of cell phone service)
Wis. Stats. § 943.46(1), (2), (4)(a), (b)	(Theft of CATV service)
Wis. Stats. § 943.50(1), (1m), (2), (3), (3m)	(Retail theft, not over \$1,000.00)
Wis. Stats. § 943.55	(Removal of shopping cart)
Wis. Stats. § 943.61(1), (2), (3), (4)	(Theft of library material, not over \$1,000.00)
Wis. Stats. § 943.70(1), (2)(a), (b)(1)	(Computer crimes)
Wis. Stats. § 947.012	(Unlawful use of telephone)
Wis. Stats. § 948.63	(Receiving property from children)
Wis. Stats. ch. 961	(Uniform Controlled Substances Act)

(Ord. of 6-9-1986, § 1; Ord. of 4-20-1998; Ord. of 12-11-2009)

Sec. 54.101. Restrictions on use of weapons.

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

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

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

as he may impose for the safety of the lives and property of other persons within the village.

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

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

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

Sec. 54.102. Firearms and weapons restricted where prohibited.

(a) *Definition.* The following definitions shall apply in the interpretation and the enforcement of this Ordinance:

- (1) “Firearm” means a weapon that acts by force of gunpowder.
- (2) “Law enforcement” means any person employed by the State of Wisconsin or any political subdivision of this State, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
- (3) “Weapon” means a handgun, an electronic weapon as defined in Wis. Stat. §941.295, a knife other than a switchblade under Wis. Stat. §941.24, or a billy club.

(b) In addition to the provisions of Wis. Stat. §175.60 enumerating those places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person, other than a law enforcement officer or other village officer or official designated by the chief of police, to enter any and all municipal buildings owned or operated by the Village of Weston while carrying a weapon or firearm. This prohibition would apply to any municipal buildings now in existence or later constructed if posted pursuant to law.

(c) It shall be unlawful for any person other than a law enforcement officer to enter any building, facility, or location open to the public that is posted as a no firearms or concealed weapons location while possessing, carrying, or concealing a firearm or weapon, whether with or without a state permit.

(d) Any person who is carrying a concealed weapon shall display his or her license document and photographic identification card to a law enforcement officer upon the request of the law enforcement officer while the law enforcement officer is acting in an official capacity and with lawful authority.

(e) Signs meeting the requirements of Wis. Stat. §943.13(2)(bm)1 shall be posted in all prominent places near all entrances of all buildings, structures, or locations that restrict or prohibit firearms or concealed weapons.

(f) Any person violating any of the provisions of this Ordinance shall, upon conviction thereof be subject to the general penalty sections and shall further be subject to penalty for trespass as prescribed in Wis. Stat. §943.13. In addition, any violation of subsection (d) shall be subject to those penalties set forth in Wis. Stat. §175.60(17).

(Ord. of 11-11-11)

Sec. 54.103. Reckless use of weapons.

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

(Ord. of 6-7-99, § 3; Ord. of 11-11-11)

Sec. 54.104. Disorderly conduct with a motor vehicle.

No person shall within the village, on public or private property, by or through the use of a motor vehicle, motorcycle, snowmobile or minibike, under circumstances that tend to cause or provoke a disturbance or annoy one or more persons, engage in violent, abusive, unreasonably loud or otherwise disorderly conduct, including but not limited to unnecessary or deliberate or intentional spinning of wheels, squealing of tires, revving of the engine, blowing the horn, causing the engine to backfire, or cause the vehicle, while commencing to move or in motion, to raise one or more of its wheels off the ground. Such conduct is hereby declared to be both unlawful and a public nuisance and all violators of this section shall be subject to a penalty as provided in section 1.111.

(Code 1982, § 4.06; Ord. of 11-11-11)

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

Sec. 54.105. Disorderly conduct prohibited.

- (1) *Types of conduct prohibited.* No person shall, in a public or private place, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance; nor shall any person, with intent to annoy another, make a telephone call, whether or not conversation ensues.
- (2) *Fighting prohibited.* No person shall within the Village of Weston, intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(Ord. of 6-7-99, § 1; Ord. of 11-11-11)

Sec. 54.106. Resisting arrest, refusing to assist an officer, impersonating an officer.

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

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

(Ord. of 6-7-99, § 2; Ord. of 11-11-11)

Sec. 54.107. Signs and bills on public property.

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

(Ord. of 6-7-99, § 4; Ord. of 11-11-11)

Sec. 54.108. Public parks, closing hours.

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

(Ord. of 6-7-99, § 5; Ord. of 11-11-11)

Sec. 54.109. Drunkenness.

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

(Code 1982, § 4.07; Ord. of 11-11-11)

Cross References--Alcohol beverages, ch. 6.

Sec. 54.110. Indecent exposure.

Any person who shall appear in any public place in the state of nudity or in any indecent or lewd dress or shall make any indecent exposure of his person shall pay a penalty as prescribed in section 1.111.

(Code 1982, § 4.09; Ord. of 11-11-11)

Sec. 54.111. Misuse of 911 emergency services number.

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

(b) *Regulated use.*

(1) No person may use the 911 emergency telephone system except in emergencies such as transmitting requests for law enforcement, fire fighting and emergency medical and ambulance services to the public safety agencies providing such services.

(2) No person may intentionally dial the telephone number 911 to report an emergency knowing that the fact or situation which he or she reports does not exist.

(c) *Penalties.* Any person who shall violate any of the provisions of this section shall, upon conviction thereof, be subject to a forfeiture of not less than \$30.00 nor more than \$500.00, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until such forfeiture and all costs are paid, but not exceeding 90 days.

(Ord. of 11-20-2000(1), § 1(54.115); Ord. of 11-11-11)

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

Sec. 54.112. Loitering.

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

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

(Ord. of 7-5-2000, § 1(54.111) (54.120); Ord. of 11-11-11)

Sec. 54.113. Unauthorized persons on school property.

(a) *Types of conduct prohibited.* No person, not in official attendance at or on official business with the DC Everest School District shall enter into any public school building or onto the grounds or campus of any public school, nor shall any person congregate, loiter, idle, stand, remain or play upon any property adjacent to and under the control of any public school between the hours of 7:00 a.m. and 4:00 p.m. on official school days.

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

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

(Ord. of 10-16-2000, § 1(54.113) (54.123); Ord. of 11-11-11)

Sec. 54.114. Social host.

(a) The Village Board intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons civilly responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Village Board finds:

- (1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol related traffic collisions.

- (3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.
- (5) A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

(b) Definitions. For purposes of this chapter, the following terms have the following meanings:

- (1) “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (2) “Alcohol beverage” means alcohol, spirits, liquor, wine, beer and every liquid or solid containing alcohol, spirits, wine or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed or combined with other substances.
- (3) “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (4) “Host” or “allow” means to aid, conduct, entertain, organize, supervise, control or permit a gathering or event.
- (5) “Parent” means any person having legal custody of a juvenile:
 - a. As natural, adoptive parent or step-parent;
 - b. As a legal guardian; or
 - c. As a person to whom legal custody has been given by order of the court.
- (6) “Residence”, “premises”, or “public or private property” means any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, or a hall or meeting room, park or any other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented or used with or without permission or compensation.
- (7) “Underage person” is any individual under twenty-one (21) years of age.

(8) “Present” means being at hand or in attendance.

(9) “In control” means the power to direct, manage, oversee and/or restrict the affairs, business or assets of a person or entity.

(c) Prohibited acts. It is unlawful for any person(s) to: host or allow an event or gathering at any residence, premises or on any other private or public property where alcohol or alcoholic beverages are present when the person knows that an underage person will or does consume any alcohol or alcoholic beverage; or possess any alcohol or alcoholic beverage with the intent to consume it; and the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

(1) A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(2) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

(d) Exceptions.

(1) This chapter does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.

(2) This chapter does not apply to legally protected religious observances.

(3) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(e) Penalties. A person who violates any provision of this ordinance is subject to a forfeiture of not less than \$1,000 nor more than \$5,000, together with the costs of prosecution.

(Ord. of 12-23-11)

ARTICLE II. MINORS

Sec. 54.200. Curfew.

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

Curfew hours means:

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

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

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

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

Guardian means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

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

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

Parent means a person who is:

(1) A natural parent, adoptive parent or stepparent of another person; or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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

Remain means to:

(1) Linger or stay; or

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

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

(b) *Offenses.*

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

(c) *Defenses.*

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

i. Married or had been married or had disabilities of minority removed in accordance with law.

(2) It is a defense to prosecution under subsection (b)(3) that the owner, operator or employe of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

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

(Code 1982, § 4.125; Ord. of 11-11-11)

Sec. 54.201. Harboring, aiding, assisting and abetting minor runaways.

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

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

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

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

- (1) Providing transportation to the runaway;
- (2) Providing money, clothing or any other useful instrument to the runaway that would aid the runaway in escape;
- (3) Obstructing by providing false or untrue information regarding the location or plan of the runaway;

- (4) Refusing to provide information to law enforcement officers when questioned about the runaway, which information was known to them at the time and would assist in the apprehension of the runaway; or
- (5) Assisting, aiding or abetting the runaway in any other way for the purpose of hindering law enforcement officers or the parents, guardian or legal custodian of the runaway from learning the whereabouts of the child.

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

(e) *Penalty.*

- (1) Any person violating this section shall upon conviction be subject to section 1.112.
- (2) Any person under the age of 18 who violates any of the provisions of this section shall upon conviction be subject to the penalties as provided in Wis. Stats. § 48.343(2).

(Ord. of 10-19-1989, § 1; Ord. of 11-11-11)

Sec. 54.202. Truancy.

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

- (1) *Acceptable excuse.* Shall mean an acceptable excuse as defined in Wis. Stats. §§118.15, 118.16(4).
- (2) *Dropout.* Shall mean a pupil who ceased to attend school, does not attend a public or private school, technical college or home-based private educational system on a full time basis, has not graduated from high school and does not have an acceptable excuse under Wis. Stats. § 118.15(1)(b)--(d), (3) and who is at least 16 years of age but less than 18 years of age.
- (3) *Habitual truant.* Shall mean a pupil who is absent from school without an acceptable excuse for part or all of five or more days on which school is held during a school semester.
- (4) *Truant.* Shall mean a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.
- (5) *Truancy.* [Shall] mean any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not

been notified of the legal cause of such absence by the parent or guardian of the absent pupil, and also means intermittent attendance carried on for the purpose of defeating the intent of the compulsory school attendance requirements set forth in Wis. Stats. § 118.15.

- (6) *Attendance at school.* No parent, guardian or other person 18 years or older shall knowingly allow a child between the ages of six and less than 18, who is under his/her control to absent himself/herself from attendance at school without an "acceptable excuse."
- (7) *Contributing to truancy.* No person 17 or older, by an act of omission, shall knowingly encourage or contribute to the truancy or habitual truancy of a child. An act or omission contributes to the truancy or habitual truancy of a child, whether or not the child is so adjudged, if the natural and probable consequences of that act of omission would be to cause the child to be truant.
- (8) *Allowing truancy.* Any parent, guardian or other adult who knowingly allows a child to absent him/herself from attendance at school without an "acceptable excuse" shall be in violation of this section.

(b) *Penalties.*

- (1) *Truant.* Any person who is deemed to be a "truant" may be subject to one or more of the following dispositions by the court.
 - a. An order for the person to attend school.
 - b. A forfeiture of not more than \$50.00 plus costs for a first violation or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. § 983.37, and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the truant, the parents or guardian of the truant of both.
- (2) *Habitual truant.* Any person who is deemed to be an "habitual truant" may be subject to one or more of the following dispositions by court:
 - a. The suspension of the habitual truant's operating privilege for not less than 30 days nor more than one year. The court shall immediately take possession of the suspended license and forward it to the department of transportation of the State of Wisconsin, together with a notice stating the reason for and the duration of the suspension.
 - b. An order for the habitual truant to participate in counseling, or a supervised work program, or other community service work as described in Wis. Stats. §

938.34(5)(g). The cost of any such counseling, supervised work program or community service work may be assessed against the habitual truant, the parents or guardian of the habitual truant, or both.

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

d. An order for the habitual truant to attend an education program as described in Wis. Stats. § 938.342(d).

e. An order for the department of workforce development to revoke, under Wis. Stats. §§103.70, 103.72, authorizing the employment of the habitual truant.

f. An order for the habitual truant to be placed in a teen court program as described in Wis. Stats. § 938.342(1)(g), (f).

g. An order for the habitual truant to attend school.

h. A forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the habitual truant, the parents or guardians of the habitual truant or both.

i. Any other reasonable conditions consistent with this section, including curfew, restrictions as to going or to remaining on specified premises and/or restrictions on associating with other children and/or adults.

j. An order placing the habitual truant under formal or informal supervision, as described in Wis. Stats. § 983.34(2), for up to one year.

k. An order for the habitual truant's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the habitual truant or both.

(3) *Dropout.* Any person who is deemed to be a "dropout" may be subject to the court suspending the person's operating privileges until the person reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the Department of Transportation of the State of Wisconsin, together with a notice stating the reason for and the duration of the suspension.

a. The municipal court may order the DC Everest School District to provide to the court a list of all persons who are known to the school district to be

dropouts and who reside within the jurisdiction of the Schofield-Weston Municipal Court.

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

(Ord. of 11-20-2000(2), § 1(54.114); Ord. of 11-11-11)

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

ARTICLE III. TOBACCO, SMOKING AND PROHIBITED SUBSTANCES*

Sec. 54.300. Smoking prohibited in certain areas.

(a) *Definitions.*

Bed and breakfast means establishment is an owner-occupied private home where the business of paying guests is secondary to its use as a private residence.

Childcare facility means any state licensed or county certified child care facility including, but not limited to, licensed family day care or licensed group day care centers, licensed day camps, certified school-age programs and pre-school programs.

Village buildings means all Village-owned and operated buildings and those portions of buildings leased and operated by the Village.

Common areas of buildings means all areas not part of a tenant's leased premises, including, but not limited to, lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas and restrooms contiguous thereto.

Common areas of malls means those areas within a mall customarily accessible to patrons.

Educational facility means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

Employee means any person who is employed by any employer for direct or indirect monetary wages or profit, including those full time, part time, temporary or contracted for from a third party; employee also means any person who serves as a volunteer for a business or nonprofit entity.

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

Employer means any person, partnership, limited liability company, corporation, or other entity, including a public or non-profit entity who employs the services of one (1) or more individual persons.

Enclosed area means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from floor or ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, 'other landscaping' or similar structures.

Entrance means a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot.

Health care facility has the meaning set forth in Sec. 155.01(6), Wis. Stats.

Hotel and motel has the meaning set forth in Sec. 94.113

Incidental means so minor in significance and non-essential to the primary use, purpose or operation that if the incidental use is discontinued, the primary purpose would continue without harm.

Mall means an enclosed, indoor area containing common areas and discrete businesses primarily devoted to the retail sale of goods and services.

Medical services has the meaning set forth in Sec. 647.01(6), Wis. Stats.

Non-smoking means smoking is prohibited.

Outdoors smoking area means a cordoned off outside area of a restaurant or tavern, like a deck or patio, that is separate from the main entrance of the restaurant and tavern and allows public access only from the inside.

Person in charge means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

Place of employment means an enclosed area controlled by the employer, which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a 'place of employment' within the meaning of this ordinance unless used as a childcare facility.

Private residence means premises owned, rented or leased by temporary or permanent habitation.

Public Building means any structure, including exterior parts of such a building, such as a porch, exterior platform, or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by three or more tenants.

Restaurant means an establishment defined in Sec. 94.113

Retail tobacco store means a business whose primary purpose is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

Room means a space within a building completely enclosed with walls, partitions, floor and ceiling, except for openings for light, ventilation, ingress and egress.

School board means the school board in charge of the public schools, grades K-12, of a school district.

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

Smokefree means absence from the ambient air of the smoke by-product from the burning, inhaling, exhaling, or carry of a lighted cigarette, cigar, pipe, weed, or plant.

Smoking means to consume by burning, inhaling, exhaling or carrying a lighted cigarette, cigar, pipe, weed, plant, or any other combustible substance in any manner in any form.

Sports arena means sports pavilions, stadiums, gymnasiums, health spas, swimming pools, roller and indoor ice rinks, and bowling centers.

Tavern means any establishment whose primary purpose is the sale of fermented malt beverages or intoxicating liquors for consumption upon said premises and in which the sale of other products is merely incidental.

Tobacco product means a combustible cigarette, cigar, weed, plant or other combustible substance prepared in such a manner that is suitable for smoking. This section shall not include smoke-free tobacco products.

(b) *Intent and purpose.*

(1) The Board of Trustees of the Village of Weston hereby finds that:

- a. It is recognized that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of nonsmokers/smokers when they are involuntarily in the presence of smoking.
 - b. Numerous scientific studies have found that tobacco smoke is a major contributor to indoor pollution.
 - c. Reliable scientific studies, including studies conducted by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.
 - d. Health hazards inducted by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction and bronchospasm.
 - e. Reliable scientific studies assessed by credible health officials have found that sidestream and secondhand tobacco smoke are a leading cause of premature death and disability among nonsmokers. Site specific local studies in Marathon and Wood Counties conducted in the summer of 2008 identified unsafe levels of small particulate matter in establishments where smoking was allowed. Secondhand tobacco smoke is a primary source of small particulate matter.
 - f. Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to nonsmokers.
- (2) This Ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of the Village of Weston , especially recognizing the rights of nonsmokers who constitute a majority of the population; educating citizens affected by this ordinance; and assisting owners, operators; and managers in maintaining compliance.
 - (3) This Ordinance is also adopted for the purpose of easing the potential economic loss and financial burden of Village restaurants and taverns where smoking is currently allowed (in 2008) through regulatory and economic relief as available for the construction of outdoors smoking areas.
 - (4) The Village of Weston Board of Trustees has twice endorsed the need for a state wide smoking ban to protect the public health and safety of its residents and to provide a level competitive playing field for all businesses especially those in the hospitality industry.

(c) *Prohibition of smoking in indoor public places.* Except as otherwise provided, it shall be unlawful for any person to smoke tobacco products in indoor public places as defined in subsection (a) and places of employment as defined in subsection (a) , including, but not limited to, the following:

- (1) Elevators and enclosed stairwells, including those within Village buildings.
- (2) Public forms of transportation, including, but not limited to, motor buses, taxicabs, or other public passenger vehicles.
- (3) Theatres, libraries, museums, auditoriums, sports arenas, convention halls which are used by or open to the public.
- (4) Any childcare facility. Incorporated herein by reference are the following Wisconsin statutory and administrative code sections and any amendments or renumbering thereof: Sec. 101.123(1)(ad) and (2)(bm), Wis. Stats.; Secs. HFS 45.02(4), 45.06(8)(g), 46.03(13), 46.06(2)(h), and 46.08(2)(c), Wis. Adm. Code.
- (5) Retail stores.
- (6) Health care facilities.
- (7) Waiting rooms, hallways, rooms of health care laboratories.
- (8) Waiting rooms, hallways, rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.
- (9) Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political or social purposes.
- (10) Polling places.
- (11) Services lobbies, waiting areas, and the common areas open to the public of financial institutions, business and professional offices, and multi-unit commercial facilities.
- (12) Self-service laundry facilities.
- (13) Enclosed, indoor areas of restaurants.
- (14) Common areas of malls.

- (15) Public bus and transfer point shelters.
- (16) Common areas of building which contain three (3) or more rental units. Written Rental Agreements shall include reference to this subdivision.
- (17) Village buildings.
- (18) Village-owned or leased motor vehicles.
- (19) Sports arenas & fieldhouses.
- (20) Enclosed indoor areas of taverns.
- (21) Enclosed areas in bed and breakfast establishments, hotels and motels.

(d) *Prohibition of smoking in outdoor areas.* It shall be unlawful for any person to smoke or use tobacco products in the following outdoor areas.

- (1) Within twenty (20) feet from all entry ways of Village-owned buildings and structures, including, but not limited to, parking ramps (if applicable) , park pavilions, etc., except open air facilities.
- (2) Outside of the Weston Public Safety Building, on the sidewalk between the main entrance and public parking lot, extending from Sternberg Avenue to Corozalla Street;
- (3) Areas in Village parks as posted and so designated by the Parks and Recreation Department including the athletic field/ bleachers & dugouts, aquatic center, skateboard park, dog park, playground and swing set areas, and park restrooms;

(e) *Smoking allowed outdoors.* Restaurants & taverns may allow smoking outdoors if it is restricted to a designated area separate from the main entrance. Restaurants and taverns may serve alcohol in the outdoors smoking area if the area provides a barrier (fence or deck railing) that allows no access to public except from inside the restaurant or tavern and is constructed in compliance with Village building and zoning codes. Restaurants, taverns, hotels, and bed & breakfast facilities shall include an endorsement on their Village liquor license that outdoor alcohol use is permitted.

- (1) The Village shall waive all building permit fees and plan review fees affiliated with the purpose of construction of an outdoor smoking area for restaurants, taverns, hotels and bed & breakfast facilities. This waiver is effective upon enactment and expires on 12/31/2009.
- (2) The Village may waive certain property setbacks and zoning restrictions found under Section 94 for the purpose of construction of an outdoors

smoking area, provide such waiver does not encroach on a private residence or create a nuisance. This waiver is effective upon enactment and expires on 12/31/2009.

- (f) *Prohibition of smoking in educational facilities.* It shall be unlawful for any person to smoke or otherwise use any tobacco products:
 - (1) In all educational facilities and in or upon all other premises owned, rented by or under the control of a school board (see Sec. 54.300(a))
- (g) *Prohibition of smoking in places of employment.*
 - (1) It shall be unlawful for any person to smoke any tobacco products in all places of employment.
 - (2) Every building which is a place of employment shall have at least one (1) entrance which is smokefree.
 - (3) Each employer, operator, manager, lessor or other person having control of the place of employment shall make reasonable efforts to ensure a smokefree workplace for all employees and frequenters.
 - (4) Upon implementation, each employer having a place of employment located within the Village of Weston shall adopt, implement and communicate written notice of the provisions of this ordinance to each employee.
- (h) *Exceptions.* There are no exceptions to this ordinance.
- (i) *Enforcement.*
 - (1) The Zoning Administrator or designee and the Chief of Police or designee shall have the power, whenever they may deem it necessary, to enter upon the premises named in this section to ascertain whether the premises are in compliance with this ordinance. A compliance time of not less than one (1) week shall be granted. Enforcement may be by citation, as permitted by Sec. 1.111
 - (2) The proprietor, employer or other person in charge of premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:
 - a. Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking or

b. Refusing service to anyone smoking in a prohibited area.

- (3) Any person who desires to register a complaint under this section may contact the Zoning Administrator or the Police Department.
- (4) Ashtrays, cigarette vending machines and other smoking paraphernalia shall not be located in areas where smoking is prohibited.
- (5) Marathon County Health Department will remind owners of this ordinance and monitor for signs of smoking during health inspection of licensed facilities. Any noted violation of this ordinance will be reported to the Zoning Administrator or the Police Department.

(j) *Retaliation prohibited.* No person shall discharge, refuse to hire, refuse or serve or in any other manner retaliate against any employee, applicant for employment, customer, service user, business patron or any other person because that person exercises any rights afforded by this section.

(k) *Violations and penalties.*

- (1) General. Any person who violates any of the provisions of this section may be subject to a forfeiture of no more than one hundred twenty-five dollars (\$125) for the first offense and no more than (\$250) for the second and (\$500) for subsequent offenses. Each day that a violation occurs shall be considered a separate offense.

(l) *Clean indoor air.*

- (1) Intent and construction. The Village of Weston finds that it is in the interest of the health, safety and welfare of the community to adopt by reference Sec. 101.123, Wis. Stats. and subsequent amendments, additions and recodifications. It is the intent of the Village Board that where there may be conflict between Sec. 101.123, Wis. Stats. And Sec. 54.300, that the most restrictive section shall apply. This ordinance shall not be construed to mean that progressive discipline of Village employees for violations of laws, rules and regulations is only authorized where explicitly provided by ordinance.
- (2) Penalty. The penalties provided by Sec. 101.123, Wis. Stats. shall be in addition to the penalties provided for violation of Sec. 54.300 when a person has violated both laws. In addition to the penalties provided by Sec. 54.300 and Sec. 101.123 Wis. Stats., any Village employee who violates any provision of Sec. 54.107 or Sec. 101.123. Wis. Stats. may also be subject to progressive discipline by his or her employer.

(m) *Severability.* The provisions of this section are severable. If any provisions of this section is held to be invalid or unconstitutional or if the application of any provisions of this section to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or applications of this section which can be given effect without the invalid or unconstitutional provisions or applications. It is hereby declared to be the intent of the Village Board of Trustees that this section would have been adopted had any invalid or unconstitutional provision or applications not been included herein.

(n) The provisions of this ordinance shall become effective on July 5, 2010.

(Code 1982, § 4.02, § 101.123; Ord. of 1-6-2009; Ord. of 7-6-2009; Ord. of 11-11-11)

Sec. 54.301. Prohibition concerning children.

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

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

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

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

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

(1) Buy or attempt to buy any cigarette or tobacco product.

(2) Falsely represent his age for the purpose of receiving any cigarette or tobacco product.

(3) Possess any cigarette or tobacco product.

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

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

(Ord. of 5-4-1992(1), § 1; Ord. of 11-11-11)

Sec. 54.302. Restrictions on sale or gift.

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

(b) *Restrictions.*

(1) No retailer may sell or give cigarettes or tobacco products to any person under the age of 18 years, except as provided in Wis. Stats. § 48.983(3). A vending machine operator is not liable under this subsection for the purchase of cigarettes or tobacco products from his vending machine by a person under the age of 18 years if the vending machine operator was unaware of the purchase.

(2) a. A retailer shall post a sign in areas within his premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 years is unlawful under this section and under Wis. Stats. § 48.983.

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

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

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

1. The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employe.

2. The vending machine is in a place where it is inaccessible to the public when the premises are closed.

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

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

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

(d) *Penalties.*

- (1) Notwithstanding the penalty provisions contained in section 1.111, any person who commits a violation of this section shall be subject to the following penalties:
 - a. A forfeiture of not more than \$500.00 if the person has not committed a previous violation within 12 months of the violation; or
 - b. Not less than \$200.00 nor more than \$500.00 if the person has committed a previous violation within 12 months of the violation.
- (2) A court shall suspend any license or permit issued under Wis. Stats. §§ 134.65, 139.34 or 139.79 to a person for:
 - a. Not more than three days if the court finds that the person committed a violation within 12 months after committing one previous violation;
 - b. Not less than three days nor more than ten days if the court finds that the person committed the violation within 12 months after committing two other violations; or
 - c. Not less than 15 days nor more than 30 days if the court finds that the person committed the violation within 12 months after committing three or more other violations.

(Ord. of 5-4-1992(2), § 1; Ord. of 11-11-11)

Sec. 54.303. Synthetic Cannabinoid Prohibited.

(a) *Possession, use and sale are illegal.* It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, “Yucatan Fire”, “fake” or “new” marijuana, or by any other name, label or description:

- (1) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol some trade or other names: HU-210.
- (2) 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018\spice.
- (3) 1-Butyl-3-(1naphthoyl) indole-some trade or other names: JWH-073.
- (4) 1-(3{trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP.
- (5) Any substance which is a cannabinoid receptor agonist (CRA). “Cannabinoid receptor agonist” means a substance that has an affinity for and stimulates physiological activity in a cannabinoid receptor within the human brain.
- (6) Or any similar structural analogs.

(b) *Medical or dental use allowed.* Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(c) *Penalties.* Any person violating this ordinance shall be subject to the following forfeitures:

- (1) *Possession/use.* A forfeiture of two hundred dollars to five hundred dollars, exclusive of costs.
- (2) *Sale.* A forfeiture of two thousand dollars to three thousand dollars, exclusive of costs.

(Ord. of 12-09-2010; Ord. of 11-11-11)

ARTICLE IV. PROPERTY

Sec. 54.400. Right of privacy regarding valuation of property for assessment purposes.

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

(b) *Exceptions.*

- (1) The assessor has access to such information in the performance of his/her duties;
- (2) The board of review may review such information when needed, in its opinion, to decide upon a contested assessment.
- (3) Another person or body has the right to review such information due to the intimate relationship to the duties of an office or as set by law.
- (4) The officer is complying with a court order.
- (5) The person providing the income and expense information has contested the assessment level at either the board of review or by filing a claim for excessive assessment under [Wis. Stats.] § 74.37, in which case the base records are open and public.

(Ord. of 8-21-2000, §§ 1, 2; Ord. of 11-11-11)

Sec. 54.401. Disposal of abandoned property.

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

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

- (3) The chief of police or a member of the Everest Metro Police Department shall permit persons to claim lost property provided they present sufficient proof they are the rightful owners.

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

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

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

- (1) Whenever any property under this section is sold by public auction or sale by sealed bid, such auction or the awarding of bids shall be preceded by a Class 2 notice describing the property and arranging the time and place for the auction or bid submission. The property auctioned or sold by sealed bid shall be sold in as-is condition to the highest bidder. No sale or auction shall occur until the chief of police or member of the Everest Metropolitan Police Department has determined that the property has no value to any probable investigation or legal proceeding. The department head responsible for the property shall determine the time in which the successful bidder shall remove the property. In the event the property is not removed within that time, the property shall revert to the village and the amount of the bid be forfeited to the village.
- (2) In the event the property reverts to the village for failure of the bidder to remove the property within the time specified or the property after being exposed to public sale either by auction or sealed bid is not sold, the said property may be disposed of in any manner that is deemed commercially reasonable by the village administrator.
- (3) If the property is not disposed of in a sale open to the public, the village shall maintain an inventory of such property; a record of the date and method of

disposal, including the consideration received for the property, if any; and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than two years from the date of disposal of the property.

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

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

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

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

(g) *Receipts from sale of abandoned property.* All receipts from the sale of abandoned property, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the village treasury. Provided, however, the net proceeds from sales at any bicycle auction shall be paid over to the Everest Metropolitan Police Department and used by the said department in its community crime prevention activities.

(Ord. of 10-16-2000(1), § 1(54.112); Ord. of 11-11-11)

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

