



*Winnebago County  
Chapter 9*

***Public Peace and Good Order***

**Adopted 7/15/80  
Revised 6/16/20**

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**PUBLIC PEACE AND GOOD ORDER CODE**  
**CHAPTER 9 WINNEBAGO COUNTY GENERAL**  
**CODE**

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**TABLE OF CONTENTS**

<b>9.01</b>	<b>Soliciting and Selling on County-Owned Property</b>
<b>9.02</b>	<b>Peace and Order (Disorderly Conduct and Unlawful Use of Telephone)</b>
<b>9.03</b>	<b>Trespass to Land</b>
<b>9.04</b>	<b>Abandoned Vehicles</b>
<b>9.05</b>	<b>Issue of Worthless Checks</b>
<b>9.06</b>	<b>Private Alarm Systems</b>
<b>9.07</b>	<b>Retail Theft</b>
<b>9.08</b>	<b>Theft</b>
<b>9.09</b>	<b>Resisting or Obstructing Officer</b>
<b>9.10</b>	<b>Nude Entertainment of Minors Prohibited</b>
<b>9.11</b>	<b>Regulation of Snowmobiles</b>
<b>9.12</b>	<b>All-Terrain Vehicles</b>
<b>9.13</b>	<b>Refusal to Pay for a Taxi Cab Ride</b>
<b>9.14</b>	<b>Smoking in County Buildings</b>
<b>9.15</b>	<b>Regulation of Pawnbrokers and Secondhand Article Jewelry Dealers</b>
<b>9.16</b>	<b>Littering</b>
<b>9.17</b>	<b>Possession of Marijuana</b>
<b>9.18</b>	<b>Possession of Drug Paraphernalia</b>
<b>9.20</b>	<b>Penalties Imposed on Owners of Dogs Running At Large</b>
<b>9.21</b>	<b>Battery</b>
<b>9.22</b>	<b>Criminal Damage to Physical Property of Another Less Than \$250 in Value</b>
<b>9.23</b>	<b>Compulsory School Attendance</b>

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<b>9.24</b>	<b>Obscenity</b>
<b>9.25</b>	<b>(Renumbered to Section 11.17)</b>
<b>9.26</b>	<b>Obstruction of Highways by Trains</b>
<b>9.27</b>	<b>Restriction of Sale or Gift of Cigarettes or Tobacco Products to Minors</b>
<b>9.28</b>	<b>Restrictions on Stopping and Parking of Vehicles</b>
<b>9.29</b>	<b>Rabies Control Program</b>
<b>9.30</b>	<b>Possession of Tobacco Products by Minors Prohibited</b>
<b>9.31</b>	<b>Prohibition of Smoking in Certain Places</b>
<b>9.32</b>	<b>Provision of Alcohol to Underage Persons</b>
<b>9.33</b>	<b>Synthetic Cannabinoid Prohibited</b>
<b>9.34</b>	<b>Authorize Charges for Unnecessary Water Rescue Efforts</b>
<b>9.35</b>	<b>Alcohol Beverages</b>
<b>9.36</b>	<b>Regulation of Motor Vehicles on Icebound Inland Lakes</b>
<b>9.37</b>	<b>Regulation of Recreational Fires on Lake Winnebago</b>
<b>9.38</b>	<b>Regulation of Purchase and Sale of Scrap Metal</b>
<b>9.39</b>	<b>Unlawful Use of Computerized Communication Systems</b>
<b>9.40</b>	<b>Prohibit Sexting by Minors in Winnebago County</b>
<b>9.41</b>	<b>Enactment of Boating Regulation Throughout Winnebago County</b>

## PUBLIC PEACE AND GOOD ORDER

### 9.01 **Soliciting and Selling on County-Owned Property:**

- (1) Authority. This section is adopted under the authority granted by [§ 59.54\(22\)](#), Wis Stats.
- (2) Title. This section shall be known as, referred to, or cited as "Winnebago County Solicitation and Selling Ordinance."
- (3) Regulation of Sales and Solicitations For Sale. Every County public works project shall proceed according to the following stages:
- (4) Exemptions. This section shall not apply to or interfere with Winnebago County's continuation of its established practice of granting leases, contracts for concessions, inviting representatives and bidders to any of its departments, or any other contracts, sales or solicitations for sales conducted by persons, departments or any of the Courts for County business purposes.
- (5) Posting of Signs. The County Buildings and Grounds Committee is hereby directed to post signs in prominent places on County-owned property, which signs shall inform the public of the existence of this section and where a copy of this section may be obtained.
- (6) Enforcement Powers. The provisions of this section shall be enforced by the County Sheriff's Department.

### 9.02 **PEACE AND ORDER (Disorderly Conduct and Unlawful Use of Telephone).**

- (1) Authority. This section of the code is adopted under the authority granted by [§ 59.54\(6\)](#), Wis Stats
- (2) Prohibited Conduct.
  - (a) Disorderly Conduct. No Person shall, in a public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstance in which the conduct tends to cause or provoke a disturbance.
  - (b) Unlawful Use of Telephone. No person shall engage in the following conduct:
    1. With intent to frighten, intimidate, threaten, abuse or harass, make a telephone call and threaten to inflict injury or physical harm to any person or the property of any person.
    2. With intent to frighten, intimidate, threaten, abuse, harass or offend, telephone another and use any obscene, lewd or profane language or suggest any lewd or lascivious act.
    3. Make or cause the telephone of another repeatedly to ring, with the intent to harass any person at the called number.
    4. Make repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.
    5. Make a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse, threaten or harass any person at the called number.

6. Knowingly permit any telephone under his or her control to be used for any purpose prohibited by this section.

(2) **Jurisdiction.** This section of the Code shall apply to unincorporated areas of the County.

### 9.03 TRESPASS TO LAND.

(1) **Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

(2) **Section 943.13, Wis Stats, Incorporated by Reference.** § 943.13, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 943.13, Wis Stats, is required or prohibited by this section of the Code.

(3) **Jurisdiction.** This section of the Code shall apply in the unincorporated areas of the County.

### 9.04 ABANDONED VEHICLES.

(1) **Authority.** This section of the Code is adopted under the authority granted by § 342.40(3), Wis Stats.

(2) **Jurisdiction.** This section of the Code shall apply to unincorporated areas of the County.

(3) **Vehicle Abandonment Prohibited.** No person shall leave unattended any motor vehicle, trailer, semi-trailer or mobile home on any public highway or private or public property, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this subsection, whenever any vehicle has been left unattended without the permission of the property owner for more than 72 hours, the vehicle is deemed abandoned and constitutes a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view, or when designated as not abandoned by the Sheriff or his duly authorized representative.

(4) **Removal And Impoundment Of Abandoned Vehicles.**

(a) **Removal.** Any Sheriff's deputy who discovers any motor vehicle, trailer, semi-trailer, or mobile home on any public highway or private or public property which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle, the deputy shall notify the Sheriff of the abandonment and of the location of the impounded vehicle.

(b) **Impoundment.** Any vehicle in violation of this section of the Code shall be impounded until lawfully claimed or disposed of under sub. (5) except if the Sheriff or his duly authorized representative determines that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, then, the vehicle may be junked or sold by the County prior to expiration of the impoundment period upon determination by the Sheriff that the vehicle is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with sub. (5).

(5) **Disposal Of Abandoned Vehicle.**

(a) **Notice to Owner and Lienholders.** Any vehicle which is deemed abandoned by the Sheriff or his duly authorized representative and not disposed of under sub. (4), shall be retained in storage for a minimum period of 10 days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges.

Such notice shall set forth the year, make, model and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this section of the Code shall be deemed a waiver of all right, title, and interest in the vehicle and a consent to the sale of the vehicle.

**(b) Sale of Vehicle.** Each retained vehicle not reclaimed by its owner or lienholder may be sold. The County may dispose of the vehicle by sealed bid or auction sale. At such sale, the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the Sheriff or his duly authorized representative, in which event, all bids may be rejected. If all bids are rejected or no bid is received, the County may either re-advertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale or junk the vehicle. Any interested person may offer bids on each abandoned vehicle to be sold. The description of the vehicle and terms of sale shall be published as a Class 1 notice and posted not less than five (5) days before the sale. The posting of the notice at the Sheriff's Department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of an abandoned vehicle, the County shall supply the purchaser with a completed form designed by the department enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area, but shall pay a storage fee of \$2.00 for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the County shall be made available to any interested person or organization which makes a written request for such list. The County may charge a fee of \$2.00 for the list.

**(c) Disposition of Proceeds of Sale.** After deducting the expense of impoundment and sale, the balance of the proceeds, if any, shall be paid into the County Treasury.

**(6) Responsibility Of Owner.** The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle may be recovered in a civil action by the County against the owner. Whether or not the County recovers the cost of towing and enforcement, the County shall be responsible to the towing service for requisitional towing service and reasonable charges- for impoundment.

**(7) Notice Of Sale.** Within five days after the sale or disposal of a vehicle as provided in sub. (4) or (5), the County shall advise the State Motor Vehicle Department of the sale or disposition on a form supplied by the department.

## 9.05 ISSUE OF WORTHLESS CHECKS.

**(1) AUTHORITY.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

**(2) Section 943.24, Wis Stats, Incorporated By Reference.** Section 943.24, Wis Stats, to the extent such statutory section prohibits the issuance of worthless checks, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act prohibited by § 943.24, Wis Stats, is prohibited by this section of the Code.

## 9.06 PRIVATE ALARM SYSTEMS.



**(1) Purpose.** The purpose of this section of the Code is to reduce the incidents of false burglary and holdup alarms received by the Winnebago County Sheriff's Department. It will establish guidelines for persons who have or will have alarms installed and will provide for penalties when alarm systems are activated by human error or malfunctions.

**(2) Definitions.**

- (a) Winnebago County.** The areas of Winnebago County for which the primary police protection is furnished by the Winnebago County Sheriff's Department.
- (b) Alarm Business.** Any business in which the owners or employees engage in the activity of installing, leasing, selling, or servicing alarm systems.
- (c) Alarm System.** An assembly of equipment installed for the purpose of notifying the police department, fire department, or other persons, either directly or indirectly, of an illegal intrusion, robbery, or fire.
- (d) False Alarm.** Activation of an alarm system through malfunction of the system or equipment or negligence of the owner, lessee, his agents or employees.
- (e) Annunciator Panel.** The instrument in the Winnebago County Public Safety Building Communications Center whereon robberies or burglaries are signaled by visual and/or audible means after the activation of an alarm system.
- (f) Automatic Dialing Service.** An alarm system which automatically dials the Winnebago County Sheriff Is Department and sends a prerecorded message advising of a burglary or robbery or fire.

**(3) Limitations on Installations Of Alarm Systems; Prohibited Installations.**

- (a)** Only alarms installed in a place of business will terminate at the Winnebago County Sheriff's Department and shall be received into the annunciator panel in the Communications Center of the Public Safety Building upon the approval of the Public Safety Building Board.
- (b)** No automatic dialing device with a prerecorded message shall terminate on any of the telephone lines into the Winnebago County Sheriff's Department.
- (c)** Any alarm system installed by an alarm business shall terminate at that business, or an answering service, and personnel of that business or answering service, shall be responsible for notifying the Winnebago County Sheriff's Department if a response by officers is needed.
- (d)** Any alarm business or answering service that notifies the Winnebago County Sheriff's Department of any type of alarm requiring emergency response shall also be responsible for notifying at least one representative of the alarm user for said alarm within' fifteen (15) minutes, or notify the Sheriff's Department they were unable to reach a representative.
- (e)** Any alarm business or alarm user is expected to properly install and maintain an alarm system so as to hold the false alarms to a minimum.

**(4) Prohibition On Testing Of Alarm Systems.**

- (a)** No alarm system received into the Winnebago County Sheriff's Department shall be tested without first notifying personnel at the 911 Center of such test and completion of the test.

(b) No alarm business or alarm user shall be permitted to test their systems to determine police response time. (Refer to [§ 941.13, Wis Stats, "False Alarms"](#).)

**(5) Penalty.** Any person who violates any provision of this section of the Code shall be subject to a warning or forfeiture as follows:

(a) Violations of subsection (3)(b):

1. The first violation shall result in a warning to the alarm user.
2. All subsequent violations shall result in a forfeiture of \$50 by the alarm user for each violation.

(b) Violations of subsections 3(c) and (d):

1. The first violation shall result in a warning to the owner(s) of the alarm business.
2. All subsequent violations shall result in a forfeiture of \$50 by the owner(s) of the alarm business for each violation.

(c) Except as hereinafter provided, the following schedule shall apply for answering false alarms, whether the alarm is caused by human error, malfunction of system or equipment, or weather conditions:

1. For the third false alarm within six (6) consecutive months, a forfeiture of \$10 will be imposed upon the alarm user.
2. For the fourth false alarm within six (6) consecutive months, a forfeiture of \$20 will be imposed upon the alarm user.
3. For the fifth, and each subsequent false alarm, within six (6) consecutive months, a forfeiture of \$25 will be imposed upon the alarm user.
4. If there is evidence of a fire, an unauthorized person being present, a forceful entry to the premises, or structural damage to the building caused by acts of God, no forfeiture will be imposed upon the alarm user.
5. No statutory surcharges shall be levied against any person found to have violated any part of this subsection of the Code.

## 9.07 RETAIL THEFT.

**(1) Authority.** This section of the Code is adopted under the authority granted by [§ 59.54\(22\)](#), Wisconsin Statutes.

**(2) Section 943.50, Wisconsin Statutes, Incorporated by Reference.** Section [943.50, Wis Stats](#), to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by [§ 943.50, Wis Stats](#), is required or prohibited by this section of the Code.

## 9.08 THEFT.



**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

**(2) Section. 943.20, Wisconsin Statutes, Incorporated by Reference.** Section 943.20, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 943.20, Wis Stats, is required or prohibited by this section of the Code.

#### 9.09 RESISTING OR OBSTRUCTING OFFICER.

**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

**(2) Section 946.41, Wisconsin Statutes, Incorporated by Reference.** Section 946.41, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 946.41, Wis Stats, is required or prohibited by this section of the Code.

#### 9.10 NUDE ENTERTAINMENT OF MINORS PROHIBITED.

**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

**(2)** No owner, lessee or person in charge of a public place within Winnebago County shall permit the presence of minors upon the premises of the public place on occasions when amusement or entertainment is furnished upon said premises by a person who is nude. Definitions:

**(a)** Nudity means the showing of the human male' or female genitals, pubic area or buttocks with less than full opaque covering or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

**(b)** Minor means any person under eighteen (18) years of age.

**(3) Penalties.** Any person who violates any provision of this section of the Code shall be subject to the imposition of those penalties upon them as is provided in Section 25.04 of this Code.

#### 9.11 REGULATION OF SNOWMOBILES.

**(1) Authority.** This section of the code is adopted under the authority granted by § 350.18(2) and 59.54(22), Wis Stats.

**(2) Chapter 350, Wis Stats, Incorporated by Reference.** Chapter 350, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as fully set forth herein. Any act required to be performed or prohibited by Chapter 350, Wis Stats, is required or prohibited by this section of the Code.

**(3) Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in § 350.11, Wis Stats.



**(4) Application.** The provisions of this ordinance shall apply to the operation of snowmobiles within Winnebago County, including but not limited to, the regulation of snowmobile operations on snowmobile trails maintained by or on snowmobile routes designated by Winnebago County or by any city, town or village within Winnebago County.

**(5) Notice Of Adoption.** Upon adoption of this ordinance by the Winnebago County Board of Supervisors, the Winnebago County Clerk shall deliver a copy of this ordinance to the Wisconsin Department of Transportation and to the offices of all law enforcement agencies within Winnebago County.

## 9.12 ALL TERRAIN VEHICLES.

**(1) Authority.** This section of the Code is adopted under the authority granted by § 23.33(11) and 59.54(22), Wis Stats.

**(2) Section 23.33, Wis Stats, Incorporated by Reference, Section 23.33,** Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as fully set forth herein. Any act required to be performed or prohibited by § 23.33, Wis Stats, is required or prohibited by this section of the Code.

**(3) Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in § 23.33(13), Wisconsin Statutes.

**(4) Application.** This ordinance shall apply to the operation of all terrain vehicles within Winnebago County, including, but not limited to, the operation of all terrain vehicles on all terrain vehicle routes designated by Winnebago County or any city, town or village within Winnebago County.

**(5) Notice Of Adoption.** Upon adoption of this ordinance by the Winnebago County Board of Supervisors, the Winnebago County Clerk shall deliver a copy of this ordinance to the Wisconsin Department of Transportation and to the offices of all law enforcement agencies within Winnebago County.

## 9.13 REFUSAL TO PAY FOR A TAXI CAB RIDE.

**(1) Authority.** This Section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

**(2) Taxi Cab Defined.** "Taxi Cab" means a motor vehicle having a passenger-carrying capacity of two (2) to fifteen (15) persons, including the operator, which is regulated and licensed as a "taxi cab" by a municipality within the State of Wisconsin for the transportation of persons for hire and operated by a person licensed to drive a "taxi cab" for hire by a municipality within the State of Wisconsin.

**(3)** No person shall receive transportation by taxi cab and refuse to pay for such transportation, without delay, upon demand of the operator or other person in charge of the taxi cab.

**(4) Penalty.** Any person who violates any provision of this Section of the Code shall pay full restitution for the cost of the taxi cab ride and shall be subject to the imposition of those penalties upon them as is provided in Section 25.04 of this Code.

## 9.14 SMOKING IN COUNTY BUILDINGS.

**(1) Authority.** This Section of the Code is adopted under the authority granted by § 101.123(2), Wis. Stats.

**(2) Definitions.** As used in this Section.



- (a) "Assisted Living Facility" means a community-based residential facility, as defined in § 50.01(1g), Wis Stats, a residential care apartment complex, as defined in § 50.01(6d), Wis Stats, or an adult family home as defined in § 50.01(1)(b), Wis Stats.
- (b) "Building" means any enclosed, indoor area of a structure owned by the County or any enclosed, indoor area of that part of a structure leased by the County.
- (c) "County-owned" means any buildings, as defined in this Section, owned by the County.
- (d) "County-leased" means any part of a building, as defined in this Section, which is leased by the County.
- (e) "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- (f) "Enclosed Indoor Area" means all space between a floor and a ceiling that is bounded by walls, doors, or windows, whether opened or closed, covering more than fifty percent (50%) of the combined surface area of the vertical planes constituting the perimeter of the area.
- (g) "Entrance" means a doorway which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot, opened windows, and any building ventilation systems.
- (h) "Smoking" means inhaling, exhaling, burning or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation in any manner or in any form. "Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.
- (i) "Sports Arena" means any stadium, pavilion, gymnasium, swimming pool, skating rink, bowling center, or other building where spectator sporting events are held.
- (j) "Vehicle" means any automobile, truck, or other motorized piece of equipment owned, leased, or operated by the county.
- (k) "Workplace" means any enclosed indoor area that employees normally frequent during the course of employment, including an office, a work area, an elevator, an employee lounge, a restroom, a conference room, a meeting room, a classroom, a hallway, a stairway, a lobby, a common area, a vehicle, a storage area, or an employee cafeteria. A private residence shall not be considered a place of employment unless it is used as a child care, adult day care, or health care facility.
- (l)
- (3) Smoking Prohibited.**
- (a) No person shall smoke in any County-owned or County-leased building, work place or vehicle at any time.
- (b) Smoking is prohibited within all sports arenas on county-owned or county- lease property.
- (c)
- (d) Smoking is prohibited within twenty (20) feet of any entrance of a county- owned or county-leased building, sports arena or workplace.

(e) No person shall smoke within the building or the campus area of Park View Health Center.

1. The “campus of Park View Health Center” shall be defined for the purpose of this ordinance as those areas, both indoors and outdoors, falling within the perimeter of the campus boundary surrounding the skilled nursing facility building at Park View Health Center, as is indicated in Exhibit “A”, attached.

(4) **Exceptions.** The prohibition in Subsection (3) shall not apply to the following structures or the following areas:

- (a) County-owned or County-leased residential rooms in assisted living facilities, which are designated smoking as defined in §§ 101.123(3)(i) and 101.123(3)(j), Wis. Stats.
- (b) Private residences in buildings owned or leased by the Winnebago County Housing Authority, unless the building is otherwise designated as smoke free.
- (c) Outside smoking areas, designated as such by the County Executive after conferring with the County Health Director, upon county-owned and leased property and sports arenas.

(5) **Responsibilities.** The County shall post signs prohibiting smoking at least twenty (20) feet from the public entrance of County-owned and County-leased buildings, sports arenas, and work places. The signs shall be:

- (a) of uniform dimensions and other characteristics required under § 101.123(2m), Wis. Stats., specified by § 101.123(6), Wis. Stats.
- (b) be posted at doorway entrances of county-owned and county- leased buildings, sports arenas and work places.

(6) **Penalties And Enforcement.**

- (a) Any person who shall violate any provision of this Section of the Code shall, upon conviction thereof, forfeit \$100.00, together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution.
- (b) Citations may be issued for violations of this Section of the General Code as provided for in Section 25.04(4) of the General Code of Winnebago County.

(7) **Effective Date.** This Ordinance shall be full force and effect as of August 22, 2010.

## 9.15 REGULATION OF PAWNBROKERS AND SECONDHAND ARTICLE AND JEWELRY DEALERS

(1) **Authority.** This Section of the Code is adopted under the authority granted by § 134.71(14), Wis Stats.

(2) **Section 134.71, Wis Stats, Incorporated by Reference.** Section 134.71, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 134.71, Wis Stats, is required or prohibited by this section of the Code.

(3) **Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in § 134.71(13), Wis Stats.



**(4) Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

### 9.16 LITTERING

**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22) and 287.81, Wis Stats.

**(2) Section 287.81, Wis Stats, Incorporated by Reference.** Section 287.81, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 287.81, Wis Stats, is required or prohibited by this section of the Code.

**(3) Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in §§ 287.81(2) and 287.97, Wis Stats.

**(4) Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

### 9.17 POSSESSION OF MARIJUANA.

**(1) Authority.** This Section of the Code is adopted under the authority granted by § 59.54(22) and Chapter 961, WisStats.

**(2) Section 961.41, 42, and 43, Wis Stats, Incorporated by Reference.** Section 961.41, 42, and 43, Wis Stats, to the extent such statutory section requires any act to be performed or prohibited, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 961.41, 42, and 43, Wis Stats, is required or prohibited by this section of the Code.

**(3) Definitions.** Those definitions included within Chapter 961, Wisconsin Statutes, are hereby adopted and by reference made a part of this section of the Code as if fully set forth herein.

**(4) Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in § 961.41, 42, and 43, Wis Stats.

**(5) Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

### 9.18 POSSESSION OF DRUG PARAPHERNALIA.

**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22) and Chapter 961, Wis Stats.

**(2) Section 961.573, Wis Stats, Incorporated by Reference.** Section 961.573, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 961.573, Wis Stats, is required or prohibited by this section of the Code.

**(3) Definitions.** Those definitions as set forth in Chapter 961, Wis Stats, specifically as set forth in §§ 961.01 and 961.571, Wis Stats, are hereby adopted and by reference made a part of this section of the Code as if fully set forth herein.

**(4) Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in § 961.573, Wis Stats.

(5) **Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

## 9.20 PENALTIES IMPOSED ON OWNERS OF DOGS RUNNING AT LARGE.

(1) **Authority.** This section of the Code is adopted under the authority granted by § 59.54(22) and Chapter 174, Wis Stats.

(2) **Section 174.042, Wis Stats, Incorporated by Reference.** Section 174.042, Wisconsin Statutes, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 174.042, Wis Stats is required or prohibited this section of the Code.

(3) **Definitions.** Those definitions contained in § 174.001, Wis Stats, are hereby adopted and by reference made a part of this section of the Code as if fully set forth herein.

(4) **Penalties.** Penalties for violation of this section of the Code shall be assessed as set forth in § 174.042, Wis Stats.

(5) **Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

## 9.21 BATTERY.

(1) **Authority.** This section of the Code is adopted pursuant to the authority granted by § 59.54(22), Wis Stats.

(2) **Section 940.19, Wis Stats, Incorporated by Reference.** Section 940.19, Wisconsin Statutes, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 940.19, Wis Stats, is required or prohibited by this section of the Code.

(3) **Penalties.** Any person who violates any provision of this section of the Code shall be subject to the imposition of those penalties upon them as is provided in Section 25.04 of this Code and shall pay full restitution to the victim of the battery.

(4) **Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

## 9.22 CRIMINAL DAMAGE TO PHYSICAL PROPERTY OF ANOTHER OF LESS THAN \$250 IN VALUE.

(1) **Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

(2) **Section 943.01, Wis Stats, Incorporated by Reference.** Section 943.01, Wisconsin Statutes, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by § 943.01, Wis Stats, is required or prohibited by this section of the Code.

(3) **Application.** This ordinance shall only be applicable to intentional damage to any physical property of another when said property damage is of less than \$250 in value.



**(4) Penalties.** Any person who violates any provision of this section of the Code shall pay full restitution for the costs of the damage to the physical property of the victim and shall be subject to the imposition of those penalties upon them as is provided in Section 25.04 of this Code.

**(5) Effective Date.** This ordinance shall be in full force and effect as of January 1, 1995.

### 9.23 COMPULSORY SCHOOL ATTENDANCE ORDINANCE

**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), 59.56(7), and 118.163, Wis Stats.

#### **(2) Parent's, Guardian's, Or Legal Custodian's Responsibility**

- (a)** Any person having under control a child (except as provided in § 118.15(1)(b) through 118.15(1)(d), and 118.15(4), Wis Stats, unless the child is excluded in accordance with § 118.15(3), Wis Stats, or has graduated from high school) who is between the ages of 6 and 18 years shall cause the child to attend school regularly during the full period and hours, religious holidays excepted, that the public or private school in which the child should be enrolled in is in session until the end of the school term, quarter, or semester of the school year in which the child becomes 18 years of age.
- (b)** No person having under control a child between the ages of 6 and 18 years may, by an act or omission, knowingly encourage or contribute to the truancy of the child, as defined under § 118.16(1)(c), Wis Stats. An act or omission contributes to the truancy of a child if the natural and probable consequences of that act or omission would be to cause the child to be truant.
- (c)** Prior to any proceeding being brought against a parent, guardian, or legal custodian, under Paragraph (a) *supra* or Paragraph (b) *supra*, the school attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred:
1. Met with the child's parent or guardian to discuss the child's truancy or have attempted to meet with the child's parent or guardian and been refused.
  2. Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under §118.15(1)(d), Wis.Stats.
  3. Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems.
  4. Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.
- (d)** Subsection (a) and (b) do not apply to a parent, guardian, or legal custodian of a child who has been sanctioned under § 49.82(2), Wis Stats.
- (e)** If, under Paragraph (a) *supra*, a person proves that he or she is unable to comply with the law because of the disobedience of the child, the action shall be dismissed.
- (f)** A person found to have violated Paragraph (a) *supra* or Paragraph (b) *supra* shall be subject to a forfeiture of not more than \$500.00.



**(3) Child-Habitually Truant**

- (a) Sections [118.15](#) and [118.16](#), Wis Stats, or as subsequently revised or amended, to the extent such statutory sections require any act to be performed or prohibits any act, is hereby adopted and by reference made a part of the this section of the Code.
- (b) No child who is between the ages of 6 and 18 years shall be a habitual truant:
1. The term "habitual truant" shall be defined as set forth in [§ 118.16\(1\)\(a\)](#), Wis Stats.
  2. The term "acceptable excuse" shall be defined as set forth in [§ 118.15](#), Wis Stats.
- (c) A child between the ages of 6 and 18 years determined to be a habitual truant may be subject to any or all of the following dispositions:
1. Suspension of the child's operating privilege, as defined in [§ 340.01\(40\)](#), Wis Stats, for not less than 30 days nor more than 90 days. The Court shall immediately take possession of any suspended license and forward it to the State of Wisconsin, Department of Transportation with a notice stating the reason for and the duration of the suspension. The child shall not be eligible for an occupational license.
  2. An order for the child to participate in counseling, community service, or a supervised work program as provided under [§ 48.345\(6\)](#), Wis Stats.
  3. An order for the child to remain at home except during 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 a child to leave his or her home if the child is accompanied by a parent or guardian.
  4. An order for the child to attend an educational program under [§ 48.345\(12\)](#), Wis Stats.
  5. An order for the Department of Industry, Labor, and Human Relations to revoke, under [§ 103.72](#), Wis Stats, a permit under [§ 103.70](#), Wis Stats, authorizing the employment of the person.
  6. An order for the person to be placed in a Teen Court Program as described in [§ 938.343\(2m\)](#), Wis Stats.

**(4) Jurisdiction**

- (a) This ordinance shall be applicable in that part of any city, village, or town located in Winnebago County, unless the city, village, or town has enacted an ordinance under [§ 118.163\(1m\)](#), Wis Stats in its entirety.
- (b) Commencement of an action under this section of the Code does not preclude concurrent prosecution in the Court assigned to exercise jurisdiction under Chapter 48.

**9.24 OBSCENITY ORDINANCE.**

- (1) **Authority.** This Section of the Code is adopted under the authority granted by §§ [59.54\(22\)](#) and [944.21](#), Wis Stats.



- (2) Intent.** The County Board intends that authority to prosecute violations of this Section shall be used primarily to combat the obscenity industry and shall never be used for harassment or censorship purposes against materials or performances having serious artistic, literary, political, educational, or scientific value. The County Board further intends that the enforcement of this Ordinance shall be consistent with the First Amendment to the United States Constitution; Article 1, Section 3, of the Wisconsin Constitution; and the compelling State interest in protecting the free flow of ideas.
- (3) Definitions.** In this Section:
- (a)** "Community" means the State of Wisconsin.
  - (b)** "Internal Revenue Code" has the meaning specified in [§ 71.01\(6\)](#), Wis Stats.
  - (c)** "Obscene material means a writing, picture, sound recording, or film which:
    1. The average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole;
    2. Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
    3. Lacks serious literary, artistic, political, educational, or scientific value if taken as a whole; and
    4. Has been declared "obscene" by the Circuit Court for Winnebago County pursuant to [§ 806.05](#), Wis Stats.
  - (d)** "Obscene performance" means a live exhibition before an audience which:
    1. The average person, applying contemporary community standards, would find appeals to the prurient interest if taken as a whole;
    2. Under contemporary community standards, describes or shows sexual conduct in a patently offensive way; and
    3. Lacks serious literary, artistic, political, educational, or scientific value if taken as a whole.
  - (e)** "Sexual conduct" means the commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, or lewd exhibition of human genitals.
  - (f)** "Wholesale transfer or distribution of obscene material" means any transfer, for valuable consideration, of obscene material for purposes of resale or commercial distribution; or any distribution of obscene material for commercial exhibition. "Wholesale transfer or distribution of obscene material" does not require transfer of title to the obscene material to the purchaser, distributee, or exhibitor.
- (4)** Whoever does any of the following with knowledge of the character and content of the material or performance and for commercial purposes is subject to the penalties under Subsection (6):
- (a)** Imports, prints, sells, has in his or her possession for sale, publishes, exhibits, or transfers any obscene material.

- (b) Produces or performs in any obscene performance.
  - (c) Requires, as a condition to the purchase of periodicals, that a retailer accept obscene material.
- (5) Whoever does any of the following with knowledge of the character and content of the material is subject to the penalties under Subsection(6):
- (a) Transfers or exhibits any obscene material to a person under the age of 18 years.
  - (b) Has in his or her possession, with intent to transfer or exhibit to a person under the age of 18 years, any obscene material.
- (6) **Penalties.** Any person violating Subsection (4) or (5) shall forfeit not less than \$500 nor more than \$10,000. Each day a violation under Subsection (4) or (5) continues constitutes a separate violation under this Section.
- (7) A contract printer or employee or agent of a contract printer is not subject to prosecution for a violation of Subsection (4) regarding the printing of material that is not subject to the contract printer's editorial review or control.

The County Board finds that the libraries and educational institutions under Paragraph (b) carry out the essential purpose of making available to all citizens a current, balanced collection of books, reference materials, periodicals, sound recordings, and audiovisual materials that reflect the cultural diversity and pluralistic nature of American society. The County Board further finds that it is in the interest of the County to protect the financial resources of libraries and educational institutions from being expended in litigation and to permit these resources to be used to the greatest extent possible for fulfilling the essential purpose of libraries and educational institutions.

No person who is an employee, a member of the Board of Directors, or a trustee of any of the following is liable to prosecution for violation of this Section for acts or omissions while in his or her capacity as an employee, a member of the Board of Directors, or a trustee:

1. A public elementary or secondary school
2. A private school, as defined in [§ 115.001\(3r\)](#), Wis Stats.
3. Any school offering vocational, technical, or adult education that:
  - a. Is a technical college, school approved by the educational approval board under Chapter 38, Wisconsin Statutes; and
  - b. Is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
4. Any institution of higher education that is accredited, as described in [§ 39.30\(1\)\(d\)](#), Wis Stats, and is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
5. A library that receives funding from any unit of government.
6. In determining whether material is obscene under [§§ 944.21\(2\)\(c\)\(1\)](#) and [\(3\)](#), Wis Stats, a judge or jury shall examine individual pictures or passages in the context of the work in which they appear.

**(9) Severability And Non-Liability.** The provisions of this Section, including the provisions of Subsection (8), are severable, and if any Section, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a Court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

**(10)Jurisdiction.** This Section of the Code shall apply in all areas of Winnebago County.

**(11)Effective Date.** This Ordinance, as amended, shall be in full force and effect as of June 15, 1997.

#### 9.25 (Renumbered to 11.17)

#### 9.26 OBSTRUCTION OF HIGHWAYS BY TRAINS

**(1) Authority.** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

**(2) Highway Obstruction Prohibited.** No railroad train, locomotive or car shall stop upon or cross any highway or street crossing or leave the same standing upon such crossing longer than ten (10) minutes, except in cases of accident. (§ 192.292, Wis Stats.)

**(3) Penalty.** Any conductor, engineer, brakeman or other person in charge of any railroad train, locomotive or car or responsible therefore who shall violate this ordinance shall be fined \$500. Each and every act of violation shall constitute a separate offense. Upon default of payment, the violator shall be imprisoned for five (5)days.

**(4) Applicability.** This ordinance shall only apply to unincorporated areas of Winnebago County.

**(5) Effective Date.** This ordinance shall be full force and effect as of September 1, 1998.

#### 9.27 RESTRICTIONS ON SALE OR GIFT OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS.

**(1) Authority.** This ordinance is adopted pursuant to that authority provided under § 134.66(5), Wis Stats.

**(2) Section 134.66, Wis Stats, Incorporated by Reference.** §134.66, Wis Stats, to the extent such statutory section requires any act to be performed or prohibited, is hereby adopted and by reference made a part of this section of the Code as if fully set forth herein. Any act required to be performed or prohibited by §134.66, Wis Stats, is required or prohibited by this section of the Code, and any act or omission penalized pursuant §134.66(4), Wis Stats, is penalized in the same manner by this section of the Code.

**(3) Applicability.** This ordinance shall apply to all areas of the County, unless a town, village or city within the County has adopted an ordinance pursuant to § 134.66(5), Wis Stats, in which case said town, village or city ordinance shall take precedence over this ordinance.

**(4) Effective Date.** This ordinance shall be effective as of September 1, 1998.

#### 9.28 RESTRICTIONS ON STOPPING AND PARKING OF VEHICLES

**(1) Authority:** This section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.

- (2) **Sections 346.50 through 346.56), Wis Stats, Incorporated by Reference:** Sections 346.50 through 346.56, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act is hereby adopted and by reference made a part of this Section of the Code as if fully set forth herein. Any act required to be performed or prohibited by §§ 346.50 through 346.56, Wis Stats, is required or prohibited by this Section of the Code.
- (3) **Applicability:** This ordinance shall be applicable in all unincorporated areas of Winnebago County.
- (4) **Penalties:** Any person who violates any provision of this section of the Code shall be subject to the imposition of a forfeiture of \$10.00 per violation. No statutory surcharges shall be applied to any person violating this Section of the Code.
- (5) **Effective Date:** This ordinance shall be full force and effect as of December 1, 2008.

### 9.29 RABIES CONTROL PROGRAM

- (1) **Authority:** This Section of the Code is adopted under the authority granted by § 59.54(22), Wis Stats.
- (2) **Section 95.21, Wis Stats, Incorporated by Reference:** Section 95.21, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this section of the Code as fully set forth herein. Any act or omission penalized pursuant to § 95.21, Wis Stats, is penalized in the same manner by this section of the Code.
- (3) **Applicability:** This Ordinance shall be applicable in all areas of Winnebago County except the City of Menasha and the City of Appleton.
- (4) **Effective Date:** This ordinance shall be full force and effect as of September 1, 2000.

### 9.30 POSSESSION OF TOBACCO PRODUCTS BY MINORS PROHIBITED

- (1) **Authority:** This ordinance is adopted pursuant to that authority provided by § 254.92(4), Wis Stats.
- (2) **Section 254.92, Wis Stats, Incorporated by Reference:** Section 254.92, Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this Section of the Code as fully set forth herein. Any act required to be performed or prohibited by § 254.92, Wis Stats, is required or prohibited by this Section of the Code.
- (3) **Penalty:** Any person who violates any provision of this Section of the Code shall be subject to forfeiture of \$100.00 plus any statutory surcharges imposed by the State Legislature.
- (4) **Applicability:** The provisions of this ordinance shall apply in all areas of Winnebago County with the exception of any town, village, or city that has adopted or adopts an ordinance pursuant to § 254.92, Wis Stats.
- (5) **Education Program:** Any person who receives a citation under this ordinance shall be offered the opportunity to have the citation dismissed upon attendance in a tobacco use education program. This opportunity will be made available only one time, regardless of the number of citations any individual receives.
- (6) **Effective Date:** This ordinance shall become effective as of March 1, 2010.



**9.31 PROHIBITION OF SMOKING IN CERTAIN PLACES**

- (1) **Authority:** This ordinance is adopted pursuant to that authority provided by § 101.123(4m), Wis Stats.
- (2) **Section 101.123, Wis Stats, Incorporated by Reference:** Section 101.123, Wis Stats, to the extent such Statutory Section requires any act be performed/prohibited, is hereby adopted and herein by reference made a part of this Section of the General Code of Winnebago County as if fully set forth herein. Any act required to be performed or prohibited by § 101.123, Wis Stats, is required/prohibited by this Section of the Code.
- (3) **DEFINITIONS:** The following definitions shall apply instead of the definition found in state statutes.
- (a) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an ecigarette, e-cigar, e-pipe, vape pen, or e-hookah.
- (b) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation in any manner or in any form. “Smoking” includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.
- (4) **Penalty:** Any person who violates any provision of this section of the Code shall be subject to forfeitures of no less than \$100.00 but no greater than \$250.00 as is set forth in § 101.123(8), Wis Stats.
- (5) **Applicability:** The provisions of this ordinance shall apply in all unincorporated areas of Winnebago County.
- (6) **Effective Date:** This ordinance shall become effective as of July 5, 2010.

**9.32 PROVISION OF ALCOHOL TO UNDERAGE PERSONS**

- (1) **Authority:** This Authority is adopted pursuant to that authority provided by § 125.10, Wis Stats.
- (2) **Section 125.07(1), Wis Stats, Incorporated by Reference:** Section 125.07(1), Wis Stats, to the extent such statutory section requires any act to be performed or prohibits any act, is hereby adopted and by reference made a part of this Section of the Code as fully set forth herein. Any act required to be performed or prohibited by §125.07(1), Wis Stats, is required or prohibited by this Section of the Code.
- (3) **Definitions:** That pursuant to that authority provided to municipalities under § 125.10, Wis Stats, the definition of “premises” as contained in § 125.02(14m), Wis Stats, shall be amended for the purpose of this Ordinance so as to include all public or private property, regardless of whether said property is described in a license or permit.
- (4) **Penalty:** Any person who violates any provision of this Section of the Code shall be subject to those forfeitures as specified in § 125.07(1)(b), Wis Stats, which is incorporated herein by reference.
- (5) **Applicability:** The provisions of this Ordinance shall apply in all unincorporated areas in Winnebago County.
- (6) **Effective Date:** This Ordinance shall become effective as of December 1, 2010.



**9.33 SYNTHETIC CANNABINOID PROHIBITED**

- (1) Authority:** This Ordinance is adopted pursuant to that authority provided under § 59.03 and 59.54(22), Wis Stats.
- (2) Possession Use And Sale Are Illegal:** It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publicly 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:
- (a)** Salviadinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
  - (b)** (6aR, 10aR) –9- (hydroxymethyl) -6, 6dimethyl -3 (2methyloctan – 2- yl) -6z, 7, 10, 10a- tetrahydrobenzo (c)chromen – 01 some trade or other names: HU-210;
  - (c)** 1 – Butyl – (3 – (1-naphthoyl) indole-some trade or other names: JWH-018/spice;
  - (d)** 1 – Butyl – 3 – (1-naphthoyl) indole-some trade other names: JWH – 073;
  - (e)** 1 – (3-{trifluoromethylphenyl}) piperazine-some trade or other names: TFMPP; or
  - (f)** JWH-2250 or similar analogues that do not have an approved medical use in the U.S. and presently listed as “Drugs of Concern” by the Federal Drug Enforcement.
  - (g)** CP 47.497
- (3) Medical Or Dental Use Allowed:**
- (a)** Acts otherwise prohibited under Section 9.33(2) of this Code 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.
- (4) Applicability:** This Ordinance shall be in full force and effect in those areas of Winnebago County which are unincorporated.
- (5) Penalty:** Any person who violates any provision of this section of the Code shall be subject to the imposition of those penalties upon them as is provided in Section 25.04 of this Code.
- (6) Effective Date:** This Ordinance shall be full force and effect as of January 30,2011.

**9.34 AUTHORIZE CHARGES FOR UNNECESSARY WATER RESCUE EFFORTS**

- (1) The Winnebago County Sheriff is hereby authorized to charge any owner or occupant of an abandoned motor vehicle, boat, watercraft, snowmobile, or all terrain vehicle, discovered on the waterways of Winnebago County, for the costs of any search and rescue effort precipitated by the owner's or occupant's failure to notify the Winnebago County Sheriff's Department in a timely manner that the owner or occupants have exited the vehicle, boat, watercraft, snowmobile, or all terrain vehicle and have found safe shelter. "Costs" shall include, but shall not be limited to, gross pay and benefits actually paid to Winnebago County Sheriff's Department personnel who participated in said search and rescue efforts; capital costs for the use of rescue and other vehicles and equipment; and fuel costs associated with said search and rescue efforts. Total costs billed regarding a single incident shall not exceed \$1,000.00 in aggregate.

### 9.35 ALCOHOL BEVERAGES.

- (1) **Authority:** This Chapter of the Code is adopted under authority granted by [§ 125.10\(1\)](#), Wis Stats.
- (2) **State Statutes Adopted:** The provisions of [Chapter 125](#), Wisconsin Statutes, hereinafter specified which define and regulate the sale, procurement, dispensing and transfer of alcohol beverages, including provisions relating to the penalty to be imposed or the punishment for violation thereof, are adopted and made a part of this Chapter of the Code by reference. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Chapter of the Code. Sections of Wisconsin Statutes adopted herein by reference shall have the same number in this Code and may be so cited.
- (3) **Sections of Chapter 125, Wis Stats, Incorporated by Reference:** The following sections of Chapter, 125, Wis Stats, are adopted by reference:
- (a) [125.07 \(1\)](#): Sales of alcohol beverages to minors.
  - (b) [125.07 \(2\)](#): Sales of alcohol beverages to intoxicated persons.
  - (c) [125.07 \(3\)](#): Minors present in places of sale; penalty.
  - (d) [125.07 \(4\)](#): Minors possession of alcohol beverages; consumption in public places; penalties.
  - (e) [125.07 \(5\)](#): Requests for emergency assistance.
  - (f) [125.07 \(6\)](#): Defense of sellers.
  - (g) [125.07 \(7\)](#): Books kept by licensees and permittees.
  - (h) [125.075\(1m\)](#): Misrepresentation of age.
  - (i) [125.085\(3\)](#): Penalties for falsification of proof of age.
  - (j) [125.09 \(2\)](#): Possession of alcohol beverages on school grounds prohibited.
  - (k) [125.11](#): Penalties.
  - (l) [125.68 \(2\)](#): Operators' licenses.
  - (m) [125.68 \(4\)](#): Closing hours.

- (4) State Forfeiture Statutes:** Any forfeiture for violation of any section of Wisconsin Statutes adopted by reference in this Chapter of the Code shall conform to the forfeiture permitted to be imposed for violation of the comparable state statute including any variations for subsequent offenses.
- (5) Uniform Schedule Adopted:** The State of Wisconsin Revised Juvenile Drinking Violation Deposit Schedule and Uniform Misdemeanor Bail Schedule adopted by the Wisconsin Judicial Conference and as amended from time to time are hereby adopted and by reference and made a part of this Code.
- (6) Citation Method:**
- (a)** The citation procedures established in [§ 778.25\(1\)](#), Wis Stats, shall apply to all actions to recover a forfeiture for violations of the following sections:
- 1) [125.07 \(4\)](#)
  - 2) [125.085 \(3\)](#)
  - 3) [125.09 \(2\)](#)
- (b)** The citation procedure as provided in section 25.04(4) of this Code shall apply to all actions in this Chapter other than those enumerated in this section of the Code.
- (7) Jurisdiction:** This Chapter of the Code shall apply within all of Winnebago County except within any city or village or within any town that has adopted or adopts an ordinance under [§ 125.10\(2\)](#), Wis Stats.
- (8) Repealed.**
- (9) Effective Date:** This Chapter of the Code shall take effect upon passage and publication as provided by law.

### 9.36 REGULATION OF MOTOR VEHICLES ON ICEBOUND INLAND LAKES

- (1) Authority:** This Ordinance is created pursuant to [§ 30.81\(2\)](#), Wis Stats.
- (2) Jurisdiction:** This Ordinance shall be applicable to any icebound inland waters over which Winnebago County has jurisdiction, except to the extent that icebound inland lakes are regulated by valid local ordinances enacted pursuant to §§ [30.81\(1\)](#) and [\(1m\)](#), Wis Stats.
- (3) Exemption:** This Ordinance shall not apply to snowmobiles regulated under Section 9.11 of this Code or all terrain vehicles regulated under Section 9.12 of this Code.
- (4) Definitions:**
- (a) Law Enforcement Officer:** A law enforcement officer shall be defined as specified in [§ 165.85\(2\)\(c\)](#), Wis Stats, and shall include a Conservation Warden.
- (b) Motor Vehicle:** A motor vehicle shall be defined as a vehicle, including a combination of two or more vehicles or an articulated vehicle, that is self propelled, except a vehicle operating exclusively on a rail. The term “motor vehicle” shall include, without limitation, a commercial motor vehicle including motorcycles.





**(5) Operating Motor Vehicles on the Frozen Surfaces of Inland Lakes:**

- (a) No person may operate a motor vehicle on the frozen surface of an inland lake in Winnebago County at a speed exceeding 10 miles per hour within 100 feet of another person who is not in or operating a motor vehicle on the frozen surface of an inland lake in Winnebago County.
  - (b) No person may operate a motor vehicle within 100 feet of a fishing shanty at a speed exceeding 10 miles per hour on the frozen surface of an inland lake in Winnebago County.
  - (c) The operator of a motor vehicle shall yield the right of way to another person who is not in or operating another motor vehicle, and who is within 100 feet of the operator's motor vehicle, on the frozen surface of an inland lake in Winnebago County.
  - (d) No person shall operate a motor vehicle at a rate of speed that is unreasonable or improper under the circumstances, or is in excess of 25 miles per hour, while traveling within 250 feet from the shoreline on the frozen surface of an inland lake in Winnebago County.
  - (e) No person shall operate a motor vehicle on the frozen surface of an inland lake in Winnebago County in excess of 25 miles per hour while travelling in a continuous route, track, or course, including, but not limited to, a serpentine, circle, oval, or any other path of travel which is not a straightway, unless the continuous route, track, or course is located 1,000 feet from the shoreline of the frozen surface of an icebound inland lake. This section shall apply to all terrain vehicles otherwise exempt from Section 9.36.
  - (f) No person shall operate a motor vehicle on the frozen surface of an inland lake unless it is equipped with a muffler in good working order. If not already regulated by Wisconsin Statute, while in stationary operation exhaust and overall engine noise levels shall not exceed 96 decibels as measured in accordance with the procedures established for the measurement of exhaust sound levels by the Society of Automotive Engineers Standard J1287.
  - (g) No person under the influence of intoxicants or other drugs, to a degree which renders the person incapable of safely operating such motor vehicle, shall operate a motor vehicle on the frozen surface of an inland lake.
- (6) Operation a Motor Vehicle on the Frozen Surface of an Inland Lake During Hours of Darkness:** Any person operating a motor vehicle on an icebound inland lake during hours of darkness is required to light all headlamps, tail lamps, and clearance lamps with which the vehicle is required to be equipped.
- (7) Penalty:** Any person who violates any provision of this Section of the Code shall be subject to a forfeiture of \$40.00 plus any statutory surcharges imposed by the State Legislature.
- (8) Effective Date:** This Ordinance shall be in full force and effect as of November 1, 2012.

**9.37 REGULATION OF RECREATIONAL FIRES ON LAKE WINNEBAGO**

- (1) Authority:** This Ordinance is created pursuant to [§ 30.81\(2\)](#), Wis Stats.
- (2) Purpose:** The purpose of this Ordinance is to regulate the building of fires for the purpose of recreational and personal enjoyment upon Lake Winnebago.
- (3) Restrictions:**



- (a) No recreational fire or portable fire pit shall be closer than ten (10) feet from any building, structure, or any other combustible material on Lake Winnebago.
  - (b) All recreational fires shall not have a diameter larger than thirty (30) inches, nor may the fire extend more than two (2) feet above the ice.
  - (c) No recreational fires shall be started or allowed to continue burning when the wind direction or wind speed causes smoke, embers, or other burning materials to be carried by the wind toward any building or other combustible materials, nor any time when the wind exceeds ten (10) miles per hour. Smoke from any recreational fires shall not create a nuisance for neighboring property owners along the shores of Lake Winnebago.
  - (d) All recreational fires shall be completely extinguished prior to abandoning the area adjacent to the recreational fire.
  - (e) At no time shall a recreational fire be allowed to burn unattended.
  - (f) Material for recreational fires shall not include rubbish, garbage, recyclable items, trash, or any material made of petroleum based materials, and shall not contain any flammable or combustible liquids, except for portable fire pits which are designed to burn LP gas. Such gas devices shall only be used per the manufacturer's listing instructions. This regulation shall not pertain to the use of lighter fluid for purposes of initially igniting a fire.
  - (g) At least one responsible person, age 18 or older, shall be present from the time the fire is ignited until the time the fire is completely extinguished.
- (4) Penalty:** Any person who violates any provision of this Section of the Code shall be subject to the imposition of those penalties upon them as is provided in Section 25.04 of the General Code of Winnebago County.

**(5) Effective Date:** This Ordinance shall be in full force and effect as of November 1, 2012.

### 9.38 REGULATION OF PURCHASE AND SALE OF SCRAP METAL

- (1) Authority:** This Ordinance is created pursuant to that authority provided in § 134.405(6), Wis Stats.
- (2) Jurisdiction:** This Ordinance shall be applicable to any scrap metal business within the non-incorporated areas of Winnebago County.
- (3) Section 134.405(1) Through (4), Wis Stats, Incorporated Herein by Reference:** Section [134.405\(1\)](#) through [\(4\)](#), Wis Stats, to the extent such Statutory section requires any act to be performed or prohibits any act, is hereby adopted, and made a part of this section of the Code by reference as if fully set forth herein. Any act required to be performed or prohibited by [§ 134.405\(1\)](#) through [\(4\)](#), Wis Stats, is required or prohibited by this Section of the Code, subject to those exceptions stated in Subsection [\(4\)](#) hereunder.
- (4) Exceptions:** This Ordinance shall not apply to transactions involving aluminum beverage cans wherein the total weight of cans sold or purchased during any singular transaction does not exceed 25 lbs. In addition, this Ordinance shall not apply to any transactions wherein the total weight of objects purchased or sold in any singular transactions does not exceed 5 lbs.



**(5) Penalties:** Any individual who violates any provision of this Section of the Code shall be subject to a forfeiture of \$50.00 for first offense and \$500.00 for second and subsequent offenses plus any statutory surcharges imposed by the State Legislature. In addition, the violator may be ordered to pay full restitution to any individual victimized as a result of the violation of any Section of this Ordinance.

**(6) Effective Date:** This Ordinance shall be effective as of October 14, 2012.

### 9.39 UNLAWFUL USE OF COMPUTERIZED COMMUNICATION SYSTEM

**(1) Authority:** This section of the General Code for Winnebago County is adopted under the authority granted by [§ 59.54\(6\)](#), Wis Stats.

**(2) Section 947.0125, Wis Stats, Incorporated Herein by Reference:**

Section 947.0125, Wis Stats, to the extent that such statutory section requires any act to be performed or prohibits any act, is hereby adopted and made a part of this section of the Code herein by reference as if fully set forth at length. Any act or omission penalized pursuant to [§ 947.0125](#), Wis Stats, is penalized in the same manner by this section of the Code.

**(3) Applicability:** This Ordinance shall be applicable in all unincorporated areas of Winnebago County.

**(4) Effective Date:** This Ordinance shall be in full force and effect as of July 6, 2014.

### 9.40 PROHIBIT SEXTING BY MINORS IN WINNEBAGO COUNTY

**(1) Authority:** This Section of the General Code for Winnebago County is adopted under the authority granted by §§ [59.03](#) and [59.54\(6\)](#), Wis Stats.

**(2) Definitions:** Words or terms as used in this Section shall have the following meanings:

- (a) Sexting:** To send or receive sexually explicit digitally-transmitted images, videos, text messages, or emails, usually by cellular telephone.
- (b) Minor:** Any person under the age of 18 years.
- (c) Nudity:** The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; showing of the female breast with less than a fully opaque covering of any part, or portion thereof, below the top of the nipple; or the depiction of covered male genitals in a discernably turgid state. A mother breastfeeding her baby does not under any circumstance constitute “nudity,” irrespective of whether or not the nipple is covered during or incidental to feeding for the purpose of this Ordinance.
- (d) Harmful to Minors:** Any reproduction, imitation, characterization, or representation, whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it: 1) predominantly appeals to prurient, shameful, or morbid interest; 2) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and 3) when taken as a whole without serious literary, artistic, political, or scientific value for minors.

**(3) Commission of the Offense of Sexting:** A minor commits the offense of sexting by knowingly:

- (a)** using any device capable of electronically transmitting data to another minor any image or recording of nudity that is harmful to minors;



- (b) possessing an image or recording those images transmitted or distributed by another minor that depicts nudity that is harmful to minors;
  - (c) soliciting the transmission or distribution of any image or recording that would itself be prohibited by this Ordinance.
- (4) Exceptions:** A minor does not violate this Ordinance if any of the following apply:
- (a) The minor did not solicit the photograph or video.
  - (b) The minor took reasonable steps to report the photograph or video to school or law enforcement officials.
  - (c) The minor did not retransmit the image or recording to a third party other than to a law enforcement or school official.
- (5) Application of Ordinance to First Offenses Only:** No person shall be cited under the provisions of this Section who has been previously cited under this Ordinance or has been previously charged under a State Statute prohibiting the same or similar conduct.
- (6) Penalty:** Any person who shall violate this Section shall pay forfeiture of \$200 plus costs.
- (7) Effective Date:** This Ordinance shall become effective as of the date following the date of its publication.

#### 9.41 ENACTMENT OF BOATING REGULATIONS THROUGHOUT WINNEBAGO COUNTY

- (1) Authority:** This Section of the General Code is created pursuant to [§30.77](#), Wis Stats.
- (2) Jurisdiction:** This Ordinance shall authorize the Winnebago County Sheriff to declare a flood emergency in consultation with the Army Corp of Engineers, Wisconsin Department of Natural Resources and/or local covenants, and enact a slow/no wake zone throughout Winnebago County waterways in the areas deemed affected. The provisions of this section of the General Code will be in effect only during a flood emergency as declared by the Winnebago County Sheriff. The provisions of this section shall apply to any and all impacted navigable waterways located within Winnebago County. The provisions of this section shall be enforced by officers of the Winnebago County Sheriff's Department's Water Patrol.
- (3) 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:
- (a) Boat: Any watercraft capable of being used as a means of transportation on water.
  - (b) Controlled: No individual shall operate a boat faster than slow/no-wake in any impacted navigable waters during such declared flood emergency.
  - (c) Fishing Raft: As defined in [§30.01\(1p\)](#), Wis Stats.
  - (d) Flood Emergency: Waters exceeding safe boating levels as determined by the Winnebago County Sheriff.

- (e) Intent: Providing safe conditions for the enjoyment of aquatic recreation consistent with public rights and interest.
  - (f) Posting Requirements: A copy of this Ordinance shall be posted at all boat landing public access points located within Winnebago County.
  - (g) Public Access: Any boat landing that provides access to the water by means of public property.
  - (h) Slow/No-Wake: That speed at which a boat moves as slowly as possible while still maintaining steering control.
  - (i) State Boating Laws Adopted: Adoption of all boating laws and regulations outlined in Chapter 30, Wis Stats, including any and all amendments or remunerations.
- (4) **Penalties:** State boating penalties as outlined in [§30.80](#), Wis Stats. Deposits as established in the Uniform Deposit and Bail Schedule established by the State Judicial Conferences, including any amendments or remunerations, are hereby adopted by reference with all references to fines amended to forfeitures and all references to imprisonment deleted.
- (5) **Effective Date:** This Ordinance shall become effective as of the date following the date of its publication.

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**CHAPTER 9 HISTORY INDEX**

9.01	Ordinance adopted	10/31/1993
9.02	Ordinance adopted	10/30/1980
9.03	Ordinance adopted	7/15/1980
9.04	Ordinance adopted	4/27/1982
9.05	Ordinance adopted	10/30/1980
9.05(3)	Repealed	4/18/1989
9.06	Ordinance adopted	6/19/1984
9.06(5)(c)5	Created	10/18/2011
9.07	Ordinance adopted	4/24/1990
9.08	Ordinance adopted	4/24/1990
9.09	Ordinance adopted	4/24/1990
9.10	Ordinance adopted	4/24/1990
9.11	Ordinance adopted	12/18/1990
9.12	Ordinance adopted	12/18/1990
9.13	Ordinance adopted	7/16/1991
9.14	Ordinance adopted	11/19/1991
	Amended	5/21/1996
	Amended	6/19/2007
9.14	Amended	7/27/2010
9.15	Ordinance adopted	12/20/1994
9.16	Ordinance adopted	12/20/1994
9.17	Ordinance adopted	12/20/1994
9.18	Ordinance adopted	12/20/1994
9.20	Ordinance adopted	12/20/1994
9.21	Ordinance adopted	12/20/1994
9.22	Ordinance adopted	12/20/1994
9.23	Ordinance adopted	3/26/1996
	Amended	5/20/1997

9.24	Ordinance adopted	8/20/1996
9.24(10)	Amended	5/20/1997
9.24(11)	Amended	5/20/1997
9.25	Ordinance adopted	8/20/1996
9.25	Renumbered Section 9.25 to 11.17	7/01/2012
9.25	Renumbered Section 9.25 to 11.17	5/05/2013
9.25(5)(a)	Amended	10/18/2011
9.26	Ordinance adopted	7/28/1998
9.27	Ordinance adopted	7/28/1998
9.28	Ordinance adopted	7/28/1998
9.28(4)	Amended	3/21/2000
	Amended	10/21/2008
	Amended	10/18/2011
9.29	Ordinance adopted	7/25/2000
9.29(3)	Amended	5/05/2013
9.30	Ordinance adopted	1/19/2010
9.30(3)	Amended	10/18/2011
9.31	Ordinance adopted	6/15/2010
9.32	Ordinance adopted	11/9/2010
9.33	Ordinance adopted	12/21/2010
9.34	Ordinance adopted	7/19/2011
9.35	Renumbered Section 125.0001 to 9.35	10/18/2011
9.35(8)	Repealed	Prior to 10/18/2011
9.36	Ordinance adopted	8/21/2012
9.37	Ordinance adopted	7/17/2012
9.38	Ordinance adopted	9/18/2012
9.39	Ordinance adopted	6/17/2014
9.40	Ordinance adopted	3/20/2018
9.41	Ordinance adopted	1/15/2019
125.0001	Ordinance adopted	3/15/1983
	Renumbered Section 125.0001 to 9.35	10/18/2011
125.0001(5)	Amended	8/20/1985