

# Title 11 Offenses

## Chapter 01 Statutory Offenses

### Division 1 State Statutes Adopted

#### 11.01.11 Offenses Against State Laws Subject to Fines and Penalties

A. The following statutes defining offenses against the peace and good order of the State are adopted by reference to define offenses against the peace and good order of the City of Onalaska. With the exception of Sec. 938.342, Wis. Stats., the penalty for commission of such offenses hereunder shall be limited to a fine imposed under the general penalty provisions of this Code of Ordinances. Any future amendments, revisions or modifications of the Statutes incorporated herein by reference are intended to be made part of this Code. The penalty for truancy and high school dropouts shall be governed by the provisions of Sec. 938.342, Wis. Stats., as adopted herein.

118.07	Healthy & Safety Requirements
118.08	School Zones; Crossings
118.09	Safety Zones
118.10	School Safety Patrols
118.105	Control of Traffic on School Premises
118.11	School Fences
118.123	Reports and Records
118.163	Municipal Truancy and School Dropout Violations
125.07(4)(a)	Underage Drinking-Procures or Attempts to Procure
125.07(4)(1b)	Underage Drinking-Possess or Consume
125.085(3)(b)	Identification Card Violations
125.09(2)	School Related Possession of Alcohol
134.65	Cigarette and Tobacco Products Retailer License
134.66	Restrictions on Sale or Gift of Cigarettes or Tobacco Products
167.10	Fireworks Regulated
167.32	Safety at Sporting Events
173.10	Investigation of Animal Cruelty Complaints
173.24	Reimbursement for Expenses
175.25	Illegal Storage of Junked Vehicles
254.92	Purchase or Possession of Tobacco Products by Person under 18 Prohibited
256.35(10)(a)	False 911 Calls
287.81	Littering
938.125	Jurisdiction- Juveniles Alleged to Have Violated Civil Laws or Ordinances
938.17	Jurisdiction- Juveniles Traffic, Boating, Snowmobile and All-Terrain Vehicle Violations and Over Civil Law and Ordinance Violations
938.342	Disposition- Truancy and School Dropout Ordinance Violations
938.343	Disposition- Juvenile Adjudged to Have Violated a Civil Law or an Ordinance
938.344	Disposition- Certain Intoxicating Liquor, Beer and Drug Violations
938.345	Disposition- Juvenile Adjudged in Need of Protection or Services
939.05(2)(b)	Aiding and Abetting
939.22	Words and Phrases Defined
940.19(1)	Battery
940.291	Failure of a Police Officer to Render Aid
940.32	Stalking
940.34	Duty to Aid Victim or Report Crime
940.42	Misdemeanor Intimidation of Witnesses
940.44	Intimidation of Victims
941.01	Negligent Operation of a Vehicle
941.10	Negligent Handling of Burning Materials
941.12(2),(3)	Interfering With or Failing to Assist in Firefighting
941.13	False Alarms and Interference with Firefighting
941.20(1)	Reckless Use of Weapon
941.23	Carrying Concealed Weapon
941.231	Carrying a Concealed Knife

941.235	Carrying a Firearm in a Public Building
941.299	Restrictions on the Use of Laser Pointers
941.315(2)	Possession of Nitrous Oxide
941.316	Possession and Abuse of Hazardous Substance
941.35	Emergency Telephone Calls
941.36	Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
941.37(1),(2)	Obstructing Emergency or Rescue Personnel
942.01	Defamation
942.03	Giving False Information for Publication
942.05	Opening Letters
942.08	Invasion of Privacy
942.10	Use of a Drone
943.01(1)	Criminal Damage to Property
943.11	Entry Into Locked Vehicle
943.125	Entry Into Locked Coin Box
943.13	Trespass to Land
943.14	Trespass to Dwellings
943.145	Criminal Trespass to a Medical Facility
943.15	Entry Into Locked Site
943.017(1)	Graffiti
943.20(3)(a)	Theft
943.21(3)	Fraud on Innkeeper or Restaurant Keeper
943.22	Cheating Tokens
943.225	Refusal to Pay for a Motor Bus Ride
943.23(1)(4)(5)	Operating Vehicle Without Owner's Consent
943.24	Issuance of Worthless Checks
943.34(1)(a)	Receiving Stolen Property
943.37	Alteration of Property Identification Marks
943.38(3)	Forgery
943.392	Fraudulent Data Alteration
943.41	Credit Card Crimes
943.45	Theft of Telecommunication Services
943.46	Theft of Video Services
943.47	Theft of Satellite Cable Programming
943.50(1) (3),(4)(a)	Retail Theft
943.55	Removal of a Shopping Cart
943.61	Theft of Library Material
943.70	Computer Crimes
944.15	Public Fornication
944.17	Sexual Gratification
944.20	Lewd and Lascivious Behavior
944.21	Obscene Material or Performance
944.23	Making Lewd, Obscene or Indecent Drawings
944.25	Sending Obscene or Sexually Explicit Electronic Messages
944.30	Prostitution
944.31	Patronizing Prostitutes
944.33	Pandering
944.36	Solicitation of Drinks Prohibited
945.01	Definitions Relating to Gambling
945.02	Gambling
945.04	Permitting Premises to be Used for Commercial Gambling
946.40	Refusing to Aid Officer
946.41	Resisting or Obstructing Officer
946.42(2)	Escape
946.46	Encouraging Violation of Probation or Parole
946.66	False Complaints of Police Misconduct
946.67	Compounding Crimes
946.69	Falsely Assuming to Act as Public Officer or Employee
946.70	Impersonating Peace Officer, Fire Fighters or other Emergency Personnel
946.71	Unlawful use of License for Carrying Concealed Weapon
946.72(2)	Tampering with Public Records and Notices
947.01	Disorderly Conduct

947.011	Disrupting a Funeral or Memorial Service
947.012	Unlawful Use of Telephone
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947.013	Harassment
947.02	Vagrancy
947.06	Unlawful Assemblies
947.07	Drinking in Common Carriers
947.20	Right to Work
948.01	Definitions Relating to Crimes Against Children
948.09	Sexual Intercourse With a Child Age 16 or Older
948.10	Exposing Genitals, Pubic Area or Intimate Parts
948.11(1)(b),(2)(b)	Exposing a Child to Harmful Material
948.21	Neglecting a Child
948.40	Contributing to the Delinquency of a Child
948.45	Contributing to Truancy
948.50	Strip Search by School Employee
948.51(1),(2),(3)(a)	Hazing
948.60	Possession of a Dangerous Weapon by a Child
948.61(1),(2)	Dangerous Weapons on School Premises
948.63	Receiving Property From a Child
948.70	Tattooing of Children
951.01	Definitions Relating to Crimes Against Animals
951.015	Construction and Application
951.02	Mistreating Animals
951.03	Dognapping or Catnapping
951.04	Leading Animal from Motor Vehicle
951.05	Transportation of Animals
951.06	Use of Poisonous and Controlled Substances
951.07	Use of Certain Devices Prohibited
951.08	Fights between Animals
951.09	Shooting at Caged or Staked Animals
951.095	Harassment of Police and Fire Animals
951.097	Harassment of Service Dogs
951.10	Sale of Baby Rabbits, Chicks and Other Fowl
951.11	Artificially Colored Animals; Sale
951.13	Providing Proper Food and Drink to Confined Animals
951.14	Providing Proper Shelter
951.15	Abandoning Animals
961	Uniform Controlled Substances Act
961.003	Uniformity of Interpretation
961.573(1)(2)	Possession of drug paraphernalia.
961.574(1)(2)	Manufacture or delivery of drug paraphernalia.
961.575(1)(2)	Delivery of drug paraphernalia to a minor.

### 11.01.02 Penalties; Attempt; Parties to Acts

- A. **Penalty.** In addition to the general penalty provisions of this Code in Section 1.01.17 or any other penalty imposed for violation of any Section of this Title, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent(s) of any unemancipated juvenile who violates those Sections related to Destruction of Property may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.
- B. **Attempt.**
1. Whoever attempts to commit an act prohibited by Title 11 of the Code of Ordinances of the City of Onalaska may be charged with and convicted of the violation.
  2. An attempt to commit a violation of this Title requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute a violation of these ordinances and that the actor does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that the actor formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

- C. **Parties to a Violation.** Whoever is concerned in the commission of a violation of this Title may be charged with and convicted of the violation although the person did not directly commit it and although the person who directly committed it has not been convicted of the violation. A person is concerned in the commission of the violation if the person directly commits the violation, intentionally aids or abets the commission of it, is a party to a conspiracy with another to commit it, or advises, hires, counsels or otherwise procures another to commit it.

## Chapter 02      Offenses against Public Safety and Peace

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### Division 1    Weapons, Firearms and Similar Implements

#### 11.02.11    Regulation of Firearms and Explosives

- A. **Discharge of Firearms and Guns Regulated.** No person shall fire or discharge any shotgun, rifle, pistol, air or spring gun or any firearm of any description which shot, ball or balls, bullets, missiles or rockets of any kind is or are expelled therefrom by the force of gas, compressed air, spring loaded, powder or other combustible matter within the City of Onalaska except this Section shall not be construed to prohibit the discharge of firearms by the Sheriff or any of their deputies, the Chief of Police or any of their subordinates or any public officer when required and made necessary in the performance of any duty imposed by law.
- B. **Shooting Into City Limits.** No person shall in the territory adjacent to the City discharge any firearm in such manner that the discharge shall enter or fall within the City.
- C. **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Common Council, after an advisory recommendation from the Chief of Police, where proper safety precautions are taken.
- D. **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosive within the City without first obtaining a permit to do so from the Chief of Police.
- E. **Hunting Prohibited.** Hunting with a firearm is prohibited within the corporate limits of the City of Onalaska.
- F. **Penalty.** Any person who violates this Section shall upon conviction be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) per offense.

#### 11.02.12    Carrying Concealed Weapons Prohibited

- A. **Definitions.**
1. **Conceal and Carry Weapon License.** A license issued under Ch.175.60, Wis. Stats. or a permit issued by another state designated by the Wisconsin Department of Justice authorized to carry concealed weapons in Wisconsin.
  2. **Dangerous Weapon.** Any firearm, whether loaded or unloaded, or any device designated as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
  3. **Weapon.** As defined under Sec. 175.60(1)(j), Wis. Stats., namely a handgun, not to include a machine gun, short barreled rifle or short barreled shotgun electric weapon as defined in Sec. 941.295(1c)(a) Wis. Stats., or a billy club.
- B. **Concealed Weapons Prohibited.** No person shall within the City wear or in any manner carry under their clothes or conceal upon or about their person any dangerous weapon except that those individuals who carry a current and valid Conceal and Carry Weapon License shall be allowed to wear or carry under their clothes or conceal upon or about their person a weapon, in those areas of the City where allowed. A person with a current and valid Conceal and Carry Weapon License may not carry a weapon, where it has been posted by the business or property owner that weapons are prohibited pursuant to Sec. 943.13, Wis. Stats. This Subsection shall not apply to a law enforcement officer or such persons as may be authorized to carry such weapons.
- C. **Specific Concealed Weapons Prohibited.** No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of their duties, shall carry or wear concealed about their person any dangerous weapon, including but not limited to a pistol, revolver, firearm, sling shot, cross-knuckle of lead, brass or other materials or any other dangerous or deadly weapon within the City, except that a person with a current and valid Conceal and Carry Weapon License or such persons as may be authorized to carry such weapons may carry a weapon in those areas of the City where allowed. A person with a current and valid Conceal and Carry Weapon License and such persons as may be authorized to carry such weapons may not carry a weapon, where it has been posted by the business or property owner that weapons are prohibited.

- D. **Carrying a Concealed Knife.** Any person who is prohibited from possessing a firearm under Sec. 941.29, Wis. Stats. is prohibited from being armed with a concealed knife that is a dangerous weapon.

### 11.02.13 Dangerous Weapons Prohibited

#### A. Definitions.

1. **Dangerous Weapon.** Any firearm, loaded or unloaded; any electric weapon as defined in Sec. 941.295(1)(c)(a), Wis. Stats.; metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles; a nunchaku or any similar weapon consisting of two (2) sticks of wood, plastic or metal connected at one end by a length of rope, chain, wire or leather cestus or similar material weighted with metal or other substance and worn on hand; a shuriken or any similar pointed star-like object intended to injure a person when thrown; or a manrikigusari or similar length of chain having weighted ends.

- B. **Possession, Sale or Manufacture of a Dangerous Weapon by a Person under 18 Prohibited.** No person under the age of eighteen (18) shall sell, possess or manufacture those dangerous weapons as outlined in Section A.1. above, except that this Section does not apply to those members of the US Armed Forces or National Guard when such use is in the line of duty or to persons whose possession or use is for target practice under the supervision of an adult or in a course of instruction in the traditional and proper use of the dangerous weapon under the supervision of an adult.

### 11.02.14 Safe Use and Transportation of Firearms and Bows

#### A. Definitions.

1. **Aircraft.** As defined under Sec. 114.002(3), Wis. Stats.
2. **Conceal and Carry Weapon License.** A license issued under Sec. 175.60, Wis. Stats. or a permit issued by another state designated by the Wisconsin Department of Justice authorized to carry concealed weapons in Wisconsin.
3. **Encased.** Enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
4. **Firearm.** A weapon that acts by force of gunpowder.
5. **Highway.** As defined under Sec. 340.01(22), Wis. Stats.
6. **Motorboat.** As defined under Sec. 30.50(6), Wis. Stats.
7. **Roadway.** As defined under Sec. 340.01(54), Wis. Stats.
8. **Unloaded.** Any of the following:
  - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
  - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
  - c. In the case of a flint lock muzzle-loading firearm, having the flash-pan cleaned of powder.
9. **Vehicle.** As defined under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.
10. **Weapon.** As defined under Sec. 175.60(1)(j), Wis. Stats., namely a handgun, not to include a machine gun, short barreled rifle or short barreled shotgun; electric weapon as defined in Sec. 941.295, Wis. Stats.; knife, not including a switchblade knife; and a billy club.

#### B. Prohibitions; Motorboards and Vehicles; Highways and Roadways.

1. Except as provided in Section 2. below no person may:
  - a. Place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - b. Place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
  - c. Load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - d. Load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
2. **Exceptions.**
  - a. Section 1. does not apply to any of the following who, in the line of duty place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
    - i. A peace officer, as defined in Sec. 939.22(22), Wis. Stats.
    - ii. A member of the U.S. Armed Forces.
    - iii. A member of the National Guard.
  - b. Section 1. does not apply to the holder of a current and valid Conceal and Carry Weapon License from carrying a concealed weapon in a vehicle except where the vehicle owner has prohibited

weapons in the vehicle and it has been posted by the vehicle owner that weapons are prohibited in a vehicle.

- c. Section 1.a.-c. does not apply to the holder of a scientific collector permit under Sec. 29.614, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
- d. Section 1.b-c. does not apply to the holder of a disabled permit under Ch. 29, Wis. Stats., who is hunting from a stationary automobile in accordance with that Chapter.

#### 11.02.15 Throwing or Shooting Arrows, Stones and Other Missiles Prohibited

- A. **Throwing or Shooting of Arrows, Stones and Other Missiles.** It shall be unlawful for any person to discharge or throw by any means any dangerous missile, object, arrow, stone, snowball or other missile within the City of Onalaska for any purpose other than the hunting of wild animals as defined in Section B. below, provided, however, upon written application to the Chief of Police and Common Council, a person may be granted permission by the Common Council to construct and maintain supervised non-commercial archery ranges if, in the opinion of the Common Council, the construction or maintenance of such ranges will not endanger the public health and safety.
  1. **Exceptions.** Friendly games of snowball fights, nerf battles and other similar games with non-lethal missiles and where all individuals are willing participants and the missiles are launched at the willing participants shall be exempt.
- B. **Hunting Wild Animals with Bow & Arrows and Crossbows.** The owner of any lands within the City, together with the invitees of such owner, may hunt wild animals with bow and arrows or crossbows or practice target shooting subject to compliance with the following:
  1. To preserve the general health, safety and welfare of the citizens of Onalaska, the use of bow and arrow or crossbow for any purpose shall not be permitted in City parks or parkways, on any school property, hospital or sanatorium as outlined in Sec. 29.301, Wis. Stats., and on any City or Federal owned Property, except as set forth in the City's Urban Deer Management Plan. For the purposes of this ordinance, wild animal shall have the definition assigned in Sec. 29.001(90), Wis. Stats.
  2. In any area within one hundred (100) yards from a building which is a permanent structure used for human occupancy (including a manufactured home as defined in Sec. 101.91(2), Wis. Stats.) unless the person who owns the land on which such building is located allows the hunter to hunt within such area. Persons hunting with a bow and arrow or crossbow must discharge the arrow or bolt from the respective weapon into the ground.
  3. Pursuant to Sec. 167.30(1), Wis. Stats., within forty (40) rods (or six hundred and sixty (660) feet) of any public park, square or enclosure owned or controlled by the City of Onalaska and resorted to for recreation or pleasure, when such park, square or enclosure is wholly situated without the limits of the City.
  4. Pursuant to Sec. 167.31(2)(d), Wis. Stats., and subject to the exceptions set forth therein, when and where the person discharges a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet of the center of a roadway.
  5. At any time and in any area when and where the person who hunts with a bow and arrow or crossbow does not discharge the arrow or bolt from the respective weapon toward the ground.

#### 11.02.16 Penalties

- A. **Penalty.** Any person who violates any section of this Division, shall upon conviction be subject to a fine of not less than Twenty-Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) per offense as set forth on the City of Onalaska Deposit Schedule.

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## Division 2 Offenses against Peace and Quiet

#### 11.02.21 Loud and Unnecessary Noise Prohibited

- A. **Declaration of Findings and Policy.** Whereas excessive sound and vibration are a serious hazard to the public health and welfare, safety, and the quality of life; and whereas the people have a right to and should be ensured an environment free from excessive sound and vibration that may jeopardize their health or welfare or safety or degrade the quality of life; now, therefore, it is the policy of the City to prevent excessive sound and vibration which may jeopardize the health and welfare or safety of its citizens or degrade the quality of life.
- B. **General Prohibition of Noise Disturbances.** No person or persons owning, leasing or controlling the operation of any source or sources of noise shall willfully, negligently, or through failure to provide necessary equipment or facilities or to take necessary precautions, permit the establishment or continuation of a condition of noise disturbance.
- C. **Measured Noise Disturbance.** This Section shall apply to the use or occupancy of any lot or structure thereon and to the noise produced thereby, but shall not apply to the following:

1. To the intermittent or occasional use, during the daytime, of light homeowner's residential outdoor equipment or commercial service equipment provided said equipment and its use complies with other provisions of this Chapter;
  2. To construction activities and the associated use of construction devices nor to the noise produced thereby, provided such activities, and such equipment and its use, comply with provisions of this Chapter;
  3. To bell towers or clock towers with bells or chimes;
  4. Any vehicle of the City while engaged in necessary public business;
  5. Excavations or repairs of streets or any other public construction work by or on behalf of the City, County, or State at any hour when the public entity determines that public welfare and convenience renders it impossible to perform such work during the day;
  6. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature; and
  7. Operation of Emergency Equipment shall be exempt. Emergency equipment shall include ambulance, police, fire, snow removal, civil defense sirens, etc., necessary for the health, safety, and protection of the citizens of the City.
- D. **Noise in Residential Areas or Affecting Residential Property.** No person shall create or cause to be emitted from or by any source subject to the provisions of this Chapter, any noise which causes or results in a noise level, measured at any lot line of any lot located in any residential area or in residential use elsewhere in conformance with the Unified Development Code, in excess of any level of Section G. of this Section, residential zone noise standard.
- E. **Noise in Commercial Areas.** No person shall create or cause to be emitted from or by any source subject to the provisions of this Chapter, any noise which causes or results in a noise level, measured at any lot line of any lot in any commercial area other than a lot in residential use in conformance with the Unified Development Code, in excess of any level of Section G. of this Section, commercial zone standard.
- F. **Noise in Other Zones.** No person shall create or cause to be emitted from or by any source subject to the provisions of this Chapter, any noise which causes or results in a noise level, measured at any lot line of any lot in any area not zoned residential or commercial in excess of any level of Section G.S of this section, other zone standard.
- G. **Construction or Repair of Buildings.** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays; provided, however, the Inspection Department shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to permit by written authorization for a period necessary within which time such work and operation may take place within the hours of 8:00 p.m. to 7:00 a.m.
- H. **Stationary Noise Limits.**
1. **Maximum Permissible Sound Levels.**
    - a. Noise from a stationary source shall not exceed the following standards for maximum sound pressure levels measured at the property line:

Zone:	Noise Rating (Daytime):	Noise Rating (Nighttime) 10pm-8am:
Residential	75db	65db
Commercial	85db	75db
All Other Zones	75db	65db
  2. **Methods of Measuring Noise.**
    - a. **Equipment.** Noise measurement shall be made with a sound level meter.
    - b. **Location of Noise Meter.** Noise measurement shall be made at the nearest lot line of the premises from which a noise complaint is received. The noise meter shall be placed at a height of at least three (3) feet above the ground and at least three (3) feet away from walls, barriers, obstructions, and all other sound reflective surfaces.
  3. **Appeals.** The Common Council may grant an exemption to individuals proving evidence of substantial hardship. Evidence that reasonable technological attempts have been made to correct the problem shall be considered grounds for granting an exemption to this Chapter for existing industries.
- I. **Permits for Amplifying Devices.**
1. **Permit Required.** The use of loudspeakers or amplifying devices on the streets or in the parks of the City of Onalaska is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a Special Event Permit under Title 7.

### 11.02.22 Public Urination/Defecation and Indecent Exposure

- A. It shall be unlawful for any person to defecate or urinate outside of designed sanitary facilities, upon any public way, sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area within the City, or upon any private property without the owner's consent or in open view of the public, or in the halls, rooms without restroom facilities, stairways or elevators of public or commercial buildings, or to indecently expose one's person.

### 11.02.23 Loitering Prohibited

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

### 11.02.24 Harassing or Obscene Telecommunications

#### A. Definitions.

1. **Telecommunication Device.** Any instrument, equipment, machine or other device that facilitates telecommunication, including but not limited to, a computer, computer network, computer chip, computer circuit, scanner, smart device, telephone, cellular telephone, pager, personal communications device, radio, transponder, receiver, modem or device that enables the use of a modem.
2. **Telecommunication Message.** Any transfer of signs, signals, writing, images, sounds, data or intelligence of any nature.

#### B. No one shall do any of the following by means of telecommunication device:

1. With intent to harass, annoy, or offend another, sends a telecommunication message to a telecommunication device and uses any violent, abusive, indecent, or profane language or image, or any other message which tends to cause or provoke a disturbance or annoyance;
2. Makes a phone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;
3. Makes or causes the phone or telecommunication device of another repeatedly or continuously to ring or make noise with intent to harass any person at the receiving number or numbers;
4. Makes repeated calls, during which conversation ensues, solely to harass any person at the receiving number or numbers;
5. Knowingly permits any telecommunication device under one's control to be used for any purpose prohibited by this Section;
6. In conspiracy or concerted action with other persons, makes repeated calls, telecommunication messages or simultaneous calls, or telecommunication messages solely to harass any person at the called number or numbers.

### 11.02.25 Unauthorized Presence on School Property Prohibited

- A. It shall be unlawful for any person, except as provided in Section B. hereof, to be present in, loiter or enter into any public school building, school parking lot or on any public school grounds without the permission of the school principal, custodian or other person in charge thereof between 7:30 a.m. and 4:30 p.m. on official school days.

#### B. Exceptions. This Section shall not apply to:

1. Students regularly enrolled in public schools who have not been properly ordered by the school principal, custodian or other person in charge thereof to leave the school building or school grounds;
2. Persons coming into the school building or school grounds for the purpose of attending scheduled school or civic functions, or making use of the recreational facilities located upon or within school premises, but as to such attendance or use, this exception shall apply only to the portion of the premises on which facilities are located and during the hours such facilities are specifically open to the general public or an invited portion thereof;
3. Parents or legal guardians of a regularly enrolled student. However, such parent or legal guardian may be required to register at the school office.

- C. The exceptions set forth in Section B. shall not apply to any person who, while in school buildings or on school grounds, commits or attempts to commit any act prohibited by statute or ordinance.
- D. All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

#### 11.02.26 Penalties

- A. **Penalty.** Any person who violates any section of this Division, shall upon conviction be subject to the General Penalty as set forth in Section 1.01.17 of Title 1 of this Code of Ordinances.

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### Division 3 Offenses against Public Safety

#### 11.02.31 Prohibition of Smoking in Enclosed and Specified Places

- A. The provisions of Sec.101.123, Wis. Stats., relating to the prohibition of smoking in various enclosed spaces are hereby adopted and made part of this Code by reference, including any revisions or amendments thereto. The prohibition of smoking in Sec.101.123, Wis. Stats., shall be extended to include electronic cigarettes defined as any electronic smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device, including vaping. A warning notice shall be issued to the Person in Charge as defined in Sec. 101.123(1)(d), Wis. Stats. for the first offense.
- B. **Penalty.** Any person violating any provision of this Section, including those provisions of the Wisconsin Statutes, which are incorporated herein by reference, shall upon conviction thereof be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) and the costs of prosecution for each violation, and in default of payment of such fine and the costs of prosecution may be imprisoned in the County Jail until payment of such fines and costs of prosecution, but not exceeding ninety (90) days for violation, provided, however, that in no case shall the fine imposed for a violation of any provisions of this Section exceed the maximum fine for the same offense under the laws of the State of Wisconsin.

#### 11.02.32 Possession of Controlled Substances

- A. **Controlled Substances.** It shall be unlawful for any person to possess a controlled substance contrary to the Uniform Controlled Substances Act, Ch. 961, Wis. Stats.
- B. **Possession of Marijuana.** No person shall possess any amount of marijuana, tetra-hydrocannabinoid or any derivative thereof, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a licensed physician or pharmacist for a valid medical purpose.

#### 11.02.33 Possession, Manufacture and Delivery of Drug Paraphernalia

- A. **Definitions.**
  1. **Drug Paraphernalia.** As defined under Sec. 961.571(1)(a), Wis. Stats.
  2. **Marijuana.** As defined under Sec. 961.01(14), Wis. Stats.
  3. **Practitioner.** As defined under Sec. 961.01(19)(a), Wis. Stats.
- B. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of Ch. 961, Wis. Stats.
- C. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of Ch. 961, Wis. Stats.
- D. **Penalty.** Any person violating the provisions of this Section may be fined not more than Five Hundred Dollars (\$500.00). Any drug paraphernalia used or possessed in violation of this Chapter shall be seized and given to the City.

#### 11.02.34 Failure to Obey Lawful Order

- A. It shall be unlawful for any person to fail to obey the direction or order of a law enforcement officer while such law enforcement officer is acting in an official capacity in carrying out their duties.

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## Division 4 Offenses Involving Alcoholic Beverages

### 11.02.41 Outside Consumption

#### A. Definitions.

1. **Alcoholic Beverage.** All ardent, spirituous, distilled or vinous liquors, liquids or compounds, whether medicated, proprietary, patented, or not, and by whatever name called, as well as all liquors and liquids made by the alcoholic fermentation of an infusion in potable water of barley malt and hops, with or without unmalted grains or decorticated or degerminated grains or sugar, which contain one-half (1/2) of one percent (1 %) or more of alcohol by volume and which are fit for use for beverage purposes.
2. **Public Area.** Any location within the City which is open to access to persons not requiring specific permission of the owner to be at such location including all parking lots serving commercial establishments.
3. **Underage Person.** Any person under the legal drinking age as defined by the Wisconsin Statutes.

#### B. Alcoholic Beverages in Public Areas.

1. **Regulations.** It shall be unlawful for any person to sell, serve or give away, or offer to sell, serve or give away, any alcoholic beverage upon any public street, sidewalk, alley, public parking lot, highway, cemetery or drives or other public area within the City or on private property without the owner's consent, except at licensed premises. It shall be unlawful for any person to consume or have in their possession any open container containing alcohol beverage upon any public street, public sidewalk, public way, public alley or public parking lot within the City, except at licensed premises.
2. **Parks.** It shall be unlawful for any person to drink or have in their possession any alcohol beverage in any City park between the hours of 11:00 p.m. and 6:00 a.m., except at licensed premises.
3. **Private Property Held Open For Public Use.** It shall be unlawful for any person to consume any alcohol beverages upon any private property held open for public use within the City unless the property is specifically named as being part of a licensed premises.
4. **Leaving Licensed Premises With Open Container.**
  - a. It shall be unlawful for any licensee, permittee or operator to permit any patron to leave the licensed premises with an open container containing any alcohol beverage.
  - b. It shall be unlawful for any patron to leave a licensed premise with an open container containing any alcohol beverage.
  - c. It shall be unlawful for any patron to remove an original unopened package, container or bottle containing any alcohol beverage from a Class A licensed premises between the hours of 9:00 p.m. and 6:00 a.m.
5. **Exceptions.**
  - a. The provisions of Subsection 1.-3. above may be waived by the Common Council for duly authorized special events.
  - b. Any organization which has been issued a special Class "B" fermented malt beverage picnic license pursuant to this Code of Ordinances for a specific area, provided that the provisions of this Chapter and Title 7 are fully complied with.

### 11.02.42 Sale to Underage or Intoxicated Persons Restricted

#### A. Sale of Alcoholic Beverages to Underage Persons.

1. No person may procure for, sell, dispense or give away any fermented malt beverages to any underage person not accompanied by their parent, guardian or spouse who has attained the legal drinking age or procure for, sell, dispense or give away any intoxicating liquor to any underage person.
2. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with any underage person not accompanied by their parent, guardian or spouse who has attained the legal drinking age or sell, vend, deal or traffic in intoxicating liquor to or with any underage person.

#### B. Sale of Alcohol Beverages to Intoxicated Persons.

1. **Restrictions.**
  - a. No person may procure for, sell, dispense or give away alcohol beverages to a person who is intoxicated.
  - b. No licensee or permittee may sell, vend, deal or traffic in alcohol beverages to or with a person who is intoxicated.

#### C. Penalties.

1. A person who commits a violation of this Section shall be subject to the General Penalty as set forth in Section 1.01.17 of this Code of Ordinances.
2. In addition to the fines provided in Subsections C.1. above, for any violation under Section A. above, a court may suspend any license or permit issued under this Chapter to a person violating this Subsection for:

- a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one (1) previous violation;
- b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
- c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.

#### 11.02.43 Underage Persons

- A. **Presence in Places of Sale Restrictions.** An underage person not accompanied by their parent, guardian or spouse who has attained the legal drinking age may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued for any purpose except the transaction of business pertaining to the licensed premises with or for the licensee or their employee. The business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. This Subsection does not apply to:
1. An underage person who is a resident, employee, lodger or boarder on the premises controlled by the proprietor, licensee or permittee of which the licensed premises consists or is a part.
  2. An underage person who enters or is on a "Class A" retail intoxicating liquor premises for the purpose of purchasing other than alcohol beverages. An underage person so entering the premises may not remain on the premises after the purchase.
  3. Hotels, drug stores, grocery stores, bowling alleys, indoor golf simulator facilities, service stations, vessels, cars operated by any railroad, regularly established athletic fields, outdoor volleyball courts that are contiguous to a licensed premises, stadiums or public facilities as defined in Sec. 125.51(5)(b)l.d, Wis. Stats., which are owned by a county or municipality, or centers for the visual or performing arts.
  4. Premises in the state fair park, concessions authorized on state-owned premises in the state parks and state forests as defined or designated in Chs. 27 and 28, Wis. Stats., and parks owned or operated by agricultural societies.
  5. Ski chalets, golf courses and golf clubhouses, racetracks licensed under Ch. 562, Wis. Stats., curling clubs, private soccer clubs and private tennis clubs.
  6. Premises operated under both a "Class B" fermented malt beverage or Class "B" alcohol beverage license or permit and a restaurant permit where the principal business conducted is that of a restaurant. If the premises are operated under both a "Class B" or Class "B" license or permit and a restaurant permit, the principal business conducted is presumed to be the sale of alcohol beverages, but the presumption may be rebutted by competent evidence.
  7. Premises operating under both a "Class C" license and a restaurant permit.
  8. An underage person who enters or remains in a room on Class "B" or "Class B" licensed premises separate from any room where alcohol beverages are sold or served, if no alcohol beverages are furnished or consumed by any person in the room where the underage person is present and the presence of underage persons is authorized under this Subsection. (An underage person may enter and remain on Class "B" or "Class B" premises under this Subsection only if the City adopts an ordinance permitting underage persons to enter and remain on the premises as provided in this Subsection and the City Police Department issues to the Class "B" or "Class B" licensee a written authorization permitting underage persons to be present under this Subsection on the date specified in the authorization. Before issuing the authorization, the City Police Department shall make a determination that the presence of underage persons on the licensed premises will not endanger their health, welfare or safety or that of other members of the City. The licensee shall obtain a separate authorization for each date on which underage persons will be present on the premises.)
  9. An underage person who enters and remains on premises for which a temporary Class "B" license is issued under Sec. 125.26, Wis. Stats., if the licensee is authorized by the official or body of the City that issued the license to permit underage persons to be on the premises under Sec. 125.26(6), Wis. Stats., and if the licensee permits underage persons to be on the premises.
- B. **Penalties.** A licensee or permittee who directly or indirectly permits an underage person to enter or be on a licensed premise in violation of Section A. above is upon conviction subject to a fine of not more than Five Hundred Dollars (\$500.00).
- C. **Underage Persons Prohibitions.** Any underage person who does any of the following is guilty of a violation:
1. Procures or attempts to procure alcohol beverages from a licensee or permittee.
  2. Unless accompanied by a parent, guardian or spouse who has attained the legal drinking age possesses or consumes alcohol beverages on licensed premises.
  3. Enters, knowingly attempts to enter or is on licensed premises in violation of Section A. above.

4. Falsely represents their age for the purpose of receiving alcohol beverages from a licensee or permittee.
- D. **Adult to Accompany.** Except as provided in Section E. below, any underage person not accompanied by their parent, guardian or spouse who has attained the legal drinking age who knowingly possesses or consumes alcohol beverages is guilty of a violation.
- E. **Exceptions.** An underage person may possess alcohol beverages in the course of employment during their working hours if employed by any of the following:
1. A brewer.
  2. A fermented malt beverages wholesaler.
  3. A permittee other than a Class "B" or "Class B" permittee.
  4. A facility for the production of alcohol fuel.
  5. A retail licensee or permittee under the conditions specified in Secs. 125.32(2) or 125.68(2), Wis. Stats., or for delivery of unopened containers to the home or vehicle of a customer.
  6. A campus, if the underage person is at least eighteen (18) years of age and is under the immediate supervision of a person who has attained the legal drinking age.
- F. **Penalties for Section C. Violations.** Any person violating Section C. is subject to the following penalties:
1. For a first (1st) violation, subject to a fine of not more than Two Hundred Fifty Dollars (\$250.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in other community service work or any combination of these penalties.
  2. For a violation committed within twelve (12) months of a previous violation, either subject to a fine of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)(1), Wis. Stats., participation in community service work or any combination of these penalties.
  3. For a violation committed within twelve (12) months of two (2) previous violations, either subject to a fine of not less than Five Hundred Dollars (\$500.00) nor more than Seven Hundred Fifty Dollars (\$750.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in community service work or any combination of these penalties.
  4. For a violation committed within twelve (12) months of three (3) or more previous violations, either subject to a fine of not less than Seven Hundred Dollars (\$700.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in community service work or any combination of these penalties.
- G. **Penalties for Section D. Violations.** Any person violating Section D. above is subject to the following penalties:
1. For a first (1st) violation, subject to a fine of less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)1, Wis. Stats., participation in community service work or any combination of these penalties.
  2. For a violation committed within twelve (12) months of a previous violation, either subject to a fine of not less than Two Hundred Dollars (\$200.00) nor more than Three Hundred Dollars (\$300.00), suspension of the person's operating privilege as provided under Sec. 343.30(6)(b)2, Wis. Stats., participation in community service work or any combination of these penalties.
  3. For a violation committed within twelve (12) months of two (2) previous violations, either subject to a fine of not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in community service work or any combination of these penalties.
  4. For a violation committed within twelve (12) months of three (3) or more previous violations, either subject to a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), revocation of the person's operating privilege under Sec. 343.30(6)(b)3, Wis. Stats., participation in community service work or any combination of these penalties.
- H. **Multiple Violations from an Incident.** For purposes of Sections C. or D. above, all violations arising out of the same incident or occurrence shall be counted as a single violation.
- I. **Disclosure of License Revocation Information.** When a court revokes or suspends a person's operating privilege under this Section, the Wisconsin Department of Transportation may not disclose information concerning or relating to the revocation or suspension to any person other than a court, district attorney, county corporation counsel, city, village or town attorney, law enforcement agency or the person whose operating privilege is revoked or suspended. A person entitled to receive information under this Subsection may not disclose the information to any other person or agency.
- J. **Applicability of Statutory Proceedings.** A person who is under eighteen (18) years of age on the date of disposition is subject to Sec. 938.344, Wis. Stats., unless proceedings have been instituted against the person in a court of civil or criminal justice after dismissal of the citation under Sec. 938.344(3), Wis. Stats.

**K. Alcohol Abuse Programs.**

1. In this Subsection, "defendant" means a person found guilty of violating Sections C. or D. who is eighteen (18), nineteen (19), or twenty (20) years of age.
2. After ordering a penalty under Sections F. or G., the court, with the agreement of the defendant, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this Subsection shall require the defendant to do any of the following:
  - a. Submit to an alcohol abuse assessment that conforms to the criteria specified under Sec. 938.547(4), Wis. Stats., and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol abuse assessment and shall specify the date by which the assessment must be completed.
  - b. Participate in an outpatient alcohol abuse treatment program at an approved treatment facility, if an alcohol abuse assessment conducted under Subsection K.2.a. recommends treatment.
  - c. Participate in a court-approved alcohol abuse education program.
3. If the approved treatment facility, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant has submitted to an assessment under Subsection K.2.a. and that the defendant does not need treatment or education, the court shall notify the defendant of whether or not the penalty will be reinstated.
4. If the defendant completes the alcohol abuse treatment program or court-approved alcohol abuse education program, the approved treatment facility or court-approved alcohol abuse education program shall, with the written informed consent of the defendant, notify the agency primarily responsible for providing services to the defendant that the defendant has complied with the order and the court shall notify the defendant of whether or not the penalty will be reinstated. If the court had ordered the suspension of the defendant's operating privilege under Section F. or G., the court may order the secretary of transportation to reinstate the operating privilege of the defendant if they complete the alcohol abuse treatment program or court-approved alcohol abuse education program.
5. If an approved treatment facility or court-approved alcohol abuse education program, with the written informed consent of the defendant, notifies the agency primarily responsible for providing services to the defendant that the defendant is not participating in the program or that the defendant has not satisfactorily completed a recommended alcohol abuse treatment program or an education program, the court shall hold a hearing to determine whether the penalties under Section F. or G. should be imposed.

- L. Defense of Sellers.** In determining whether or not a licensee or permittee has violated Sections 11.02.42.A. or 11.02.43.A. all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages may be considered, including any circumstances listed below. In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this Section:
1. That the purchaser falsely represented that they had attained the legal drinking age.
  2. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
  3. That the sale was made in good faith and in reliance on the written representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
  4. That the underage person supported the representation under Subsection 1 above with documentation that they had attained the legal drinking age.

- M. Additional Prohibited Acts.** In addition to any other provision of the City of Onalaska Code of Ordinances, no juvenile shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Ch. 125, Wis. Stats.

- N. Penalty for Violations of Section E.** Any juveniles who shall violate the provisions of Section D. shall be subject to the same penalties as are provided in the General Penalty provision of Section 1.01.17 of this Code of Ordinances exclusive of the provisions therein relative to commitment in the County Jail.

**11.02.44 False or Altered Identification Cards**

- A.** Any underage person who does any of the following is subject to a fine of not less than Three Hundred Dollars (\$300.00) and not more than One Thousand Two Hundred and Fifty Dollars (\$1,250.00), suspension of the person's operating privilege under Sec. 343.30(6)(bm), Wis. Stats., or other community service work or any combination thereof:
1. Intentionally carries an official identification card not legally issued to them, an official identification card obtained under false pretenses or an official identification card which has been altered or duplicated to convey false information. A law enforcement officer shall confiscate any card that violates this Subsection.
  2. Makes, alters or duplicates an official identification card purporting to show that they have attained the legal drinking age.

3. Presents false information to an issuing law enforcement officer in applying for an official identification card.
4. Intentionally carries an official identification card or other documentation showing that the person has attained the legal drinking age, with knowledge that the official identification card or documentation is false.

#### 11.02.45 Possession of Alcohol Beverages on School Grounds Prohibited

##### A. Definitions.

1. **Motor Vehicle.** A motor vehicle owned, rented or consigned to a school.
2. **School.** A public, parochial or private school which provides an educational program for one (1) or more grades between grades one (1) and twelve (12) and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.
3. **School Administrator.** The person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.
4. **School Premises.** Premises owned, rented or under the control of a school.

##### B. Except as provided by Section C. no person may possess or consume alcohol beverages:

1. On school premises;
2. In a motor vehicle, if a pupil attending the school is in the motor vehicle; or
3. While participating in a school-sponsored activity.

##### C. Alcohol beverages may be possessed or consumed on school premises, in motor vehicles or by participants in school-sponsored activities if specifically permitted in writing by the School Administrator consistent with applicable laws, ordinances and School Board policies.

##### D. A person who violates this Section is subject to a fine of more than Two Hundred Dollars (\$200.00), except that Sec. 938.344, Wis. Stats., and Division 4 of Chapter 2 of this Title of Ordinances provide the penalties applicable to underage persons.

#### 11.02.46 Adult Permitting or Encouraging Underage Violation.

##### A. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on property, including premises owned and occupied by the adult or occupied by the adult and under the adult's control. This Section applies at a lodging establishment, as defined under Sec. 106.52(1)(d), Wis. Stats., only if the adult has furnished payment or security for the lodging. This Subsection does not apply to alcohol beverages used exclusively as part of a religious service.

##### B. No adult may intentionally encourage or contribute to a violation of Section 11.02.43.A or B.

##### C. A person who violates this Section is subject to a fine and suspension as set forth in 11.02.42.C1 and C2.

#### 11.02.47 Social Hosting

##### A. **Purpose and Findings.** The Common Council of the City of Onalaska 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 twenty-one (21) years of age possess or consume alcohol. The Common Council of the City of Onalaska 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 (21) 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 knowingly allowing underage possession or consumption of alcohol.

##### B. **Definitions.** For purposes of this Chapter, the following terms have the following meanings:

1. **Alcohol.** 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 or Alcoholic Beverage.** Fermented malt beverages and intoxicating liquor.
3. **Event or Gathering.** Any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
4. **Host or Allow.** To aid, conduct, entertain, organize, supervise, control or permit a gathering or event.

5. **Parent.** Shall mean 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.** Shall mean any home, yard, farm, field, land, apartment, condominium, hotel or motel room or other dwelling unit, 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.** Shall mean any individual under twenty-one (21) years of age.
  8. **Present.** Being at hand or in attendance.
- C. **Prohibited Acts.**
1. It is unlawful for any adult to knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on premises owned by the adult or under the adult's control.
    - a. Additionally, an adult is responsible for violating this Section above if the adult intentionally encourages or contributes to any underage person:
      - i. procuring or attempting to procure alcohol beverages from a licensee or permittee;
      - ii. possessing or consuming alcohol beverages on licensed premises;
      - iii. entering or knowingly attempting to enter or is on licensed premises in violation of Sec. 125.07(3)(a), Wis. Stats., or
      - iv. falsely represents their age for the purpose of receiving alcohol beverages from a licensee or permittee.
    - b. It is unlawful for any person to procure for, sell, dispense or give away any alcohol beverages to any underage person not accompanied by their parent, guardian or spouse who has attained the legal drinking age.
- D. **Exceptions.** This Chapter does not apply to conduct solely between an underage person and their parents while the parent is present and in control of the underage person.
1. This Chapter does not apply to legally protected religious observances.
  2. 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.
  3. This Chapter does not apply to situations where a parent lawfully serves alcohol to their own child.
- E. **Penalties.** A person who violates any provision of this Ordinance is subject to subject to a fine of not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within thirty (30) months of the violation, not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than thirty (30) days or both if the person has committed a previous violation within thirty (30) months of the violation, not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than ninety (90) days or both if the person has committed two (2) previous violations within thirty (30) months of the violation or not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for not more than nine (9) months or both if the person has committed three (3) or more previous violations within thirty (30) months of the violation, together with the costs of prosecution. A person who is in default of payment is subject to imprisonment in the county jail until the fines and costs are paid.

## Chapter 03 Offenses against Property

### Division 1 Property Damage

#### 11.03.11 Destruction or Theft of Property Prohibited

- A. **Destruction of Property.**
1. No person shall willfully injure or intentionally deface, destroy, damage or unlawfully remove, take or interfere with any property of any kind or nature belonging to the City of Onalaska, Onalaska School District or to any private person or business without the consent of the owner or property authority.
  2. No person shall willfully, maliciously or wantonly and without cause with a motor vehicle deface, destroy, take or meddle with or injure any tree, shrub, grass, turf, plants, crops or soil belonging to the City of Onalaska, Onalaska School District or to any private person without the consent of the owner or proper authority.
  3. **Damaging Fire Hydrants and Water Mains.** No person shall, without the authority of City officials, operate any valve connected with the street or water supply mains, or open any fire hydrant connected with the water distribution system, except for the purpose of extinguishing a fire. No person shall injure or impair the use of any water main or fire hydrant.

- B. **Parental Liability.** Pursuant to Sec. 895.035, Wis. Stats., the parents of an emancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton action of such minor; such liability shall not exceed the statutory amount for any one (1) act.
- C. **Graffiti Prohibited.** No person may write, paint, or draw any inscription, figure, or mark of any type of any public building, structure or property or other real or personal property owned by another person, business or entity unless the express permission of the owner or proper authority has been obtained. The existence of graffiti on any real property within the City is expressly declared a public nuisance affecting the public health, safety and welfare.
  - 1. **Graffiti Definition.** Marks, symbols, signs, letters, names, phrases, writings, drawings or sentences which are inscribed or placed on real property without the consent of the owner or occupant that are not otherwise permitted by law.
  - 2. **Abatement.** Every owner of a structure or real property defaced by graffiti shall report the defacing to the City of Onalaska Police Department upon discovery. The owner shall also comply with the terms of a written notice to abate served on the property owner by the Police Department or Planning/Inspection Department ordering the removal or covering of such graffiti. The notice to abate shall be served personally or by certified mail. If a property owner fails to comply with the notice to abate within seventy-two (72) hours, the City shall have the graffiti covered or removed and all costs, fees, and expenses shall be entered into the tax roll as a special charge, pursuant to Sec. 66.0627, Wis. Stats., against the parcel of land on which the property is defaced by the graffiti is located. Extensions to the seventy-two (72) hour correction period may be granted by the Chief of Police or their designee.

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## Division 2 Other Offenses against Property

### 11.03.21 Trespass

- A. **Definitions.**
  - 1. **Property.** Any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether or not a person is living in such home.
  - 2. **Trespass.** Trespass shall mean any of the following:
    - a. **Entering Property Without Permission.** Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass or place thereon or therein anything animate or inanimate.
    - b. **Entering or Remaining on Property.** Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession or by any law enforcement officer or public employee whose duty it is to supervise the use of or maintenance of the property.
    - c. **Interfering with Lawful Use of Property.** Entering upon or in private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.
    - d. **Using Property Without Permission.** Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing or placing thereon or therein anything animate or inanimate without the implied or actual permission of the owner, lessee or person in lawful possession.
- B. **Trespass Prohibited.** It shall be unlawful for a person to knowingly trespass.
- C. **Exception.** None of the above shall be construed to prohibit entering upon the land of another for the sole purpose of retrieving personal property which as accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of others, provided the person(s) retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as possible and does not unduly interfere with the lawful use of the property.

### 11.03.23 Penalties

- A. In addition to the General Penalty of this Code in Section 1.01.17 or any other fine or penalty imposed for violation of any Section of this Chapter, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates Destruction of Property or Damage to Public Property may also be held liable for the cost of replacing or repairing such damaged or destroyed property in accordance with the Wisconsin Statutes. Nothing in this Code of Ordinances shall prevent the Police Department from referring violations of the provisions of this Title to the District Attorney's office in the interest of justice.

## Chapter 04      Offenses by Juveniles

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### Division 1    Administration and General Offenses

#### 11.04.11    City Jurisdiction over Juveniles

- A. **Adoption of State Statutes.** Secs. 938.02 and 938.17(2), Wis. Stats., are hereby adopted and by reference made a part of this Section as if fully set forth herein.
- B. **Definitions.**
  - 1. **Adult.** A person who is eighteen (18) years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any civil law or municipal ordinance, "adult" means a person who has attained seventeen (17) years of age.
  - 2. **Juvenile.** A person who is less than eighteen (18) years of age, except that for purposes of prosecuting a person who is alleged to have violated a civil law or municipal ordinance, "juvenile" does not include a person who has attained seventeen (17) years of age.
- C. **Provisions of Ordinance Applicable to Juveniles.** Subject to the provisions and limitations of Sec. 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code of Ordinances against juveniles may be brought on behalf of the City of Onalaska and may be prosecuted utilizing the same procedures in such cases as are charged with the same offense.
- D. **No Incarceration as Penalty.** The Court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this Section.

#### 11.04.12    Enforcement

- A. **Citation Process.** For violations of this Chapter, juveniles may be cited by the citation process on a form approved by the City Attorney and Chief of Police. A parent notification will be mailed to the parent or legal guardian.

#### 11.04.13    Curfew

- A. **Prohibited.** No person who is seventeen (17) years of age or under shall be on foot, bicycle, or in any type of vehicle on any public street, avenue, alley, park, school grounds or other public places in the City between the hours of 11:00 p.m. and 5:00 a.m. Sunday through Thursday and between the hours of 12:00 p.m. and 5:00 a.m. on Friday and Saturday, unless accompanied by a parent or guardian or person having lawful custody and control of their person or unless there exists a reasonable necessity therefor. The fact that the child, unaccompanied by parent, guardian or other person having legal custody, is found upon any street, alley or public place during the aforementioned hours shall be prima facie evidence that the child is there unlawfully and that no reasonable excuse exists therefore.
- B. **Parental Responsibility.** It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under eighteen (18) years of age to allow or permit such person to violate the provisions of Section A. above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this Section occurring within thirty (30) days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any person under eighteen (18) years of age to violate this Section.
- C. **Responsibility of Places of Amusement.** No person operating or in charge of any place of amusement, entertainment, refreshment or other place of business shall permit any minor under eighteen (18) years of age to loiter, loaf or idle in such place during the hours prohibited by this Section. Whenever the entertainment, refreshment or other place of business during the hours prohibited by this Section, finds person under eighteen (18) years of age loitering, loafing or idling in such place of business, they shall immediately order such person to leave and if such person refuses to leave, the operator shall immediately notify the Police Department and inform them of the violation.
- D. **Detaining a Minor.** Every law enforcement officer is hereby authorized to detain any minor violating the provisions above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified and the person so notified shall as soon as reasonably possible thereafter report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for the minor. If no response is received, the law enforcement officer shall take whatever action is deemed necessary in the best interest of the minor. Provided, however, that no detention of a minor shall occur unless the law enforcement officer has reason to believe that no defense or exception to the curfew applies.
- E. **Exceptions.** The provisions of Section A. shall not apply to:
  - 1. Minors returning home from municipal, religious and school activities; or
  - 2. Minors during or returning from employment.

#### 11.04.14 Petty Theft and Receipt of Stolen Goods by Juveniles

- A. It shall be unlawful for any person under the age of seventeen (17) years of age, with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof and to intentionally receive or conceal property they know to be stolen.

#### 11.04.15 Sexting

A. **Definitions.**

1. **Nudity.** Showing of the human male or female genitals, pubic area, or buttocks with less than a fully 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. Breastfeeding of a baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.
2. **Harmful to Minors.** Any reproduction, imitation, characterization, description, exhibition, presentation or representation, of whatever kind of form, depicting nudity, sexual conduct, or sexual excitement when it:
  - a. Predominately appeals to indecent, shameful, or morbid interest;
  - b. 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
  - c. Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.
3. **Minor.** Any person under the age of eighteen (18) years of age.

B. **Sexting Prohibited.** A minor commits the offense of sexting if they knowingly:

1. Use any device capable of electronic data transmission or distribution, to transmit or distribute to another person any image, recording, text, correspondence, message or substantially similar form of communication, of any person which depicts nudity, as defined above, and is harmful to minors, as defined above.
2. Possess any image, recording, text, correspondence, message or other substantially similar form of communication that was transmitted or distributed by another person which depicts nudity, and is harmful to minors. A minor does not violate this paragraph if all of the following apply:
  - a. The minor did not solicit the photograph, video or substantially similar communication;
  - b. The minor took reasonable steps to report the photograph, video or substantially similar communication to a school or law enforcement officer; and
  - c. The minor did not transmit or distribute the photograph, video or substantially similar communication to a third party other than a law enforcement officer.

#### 11.04.16 Unlawful Sheltering of Minors

- A. No person shall intentionally shelter or conceal a minor child who:
1. Is a "runaway child", meaning a child who has run away from their parent, legal guardian or legal or physical custodian; or
  2. Is a child who may be taken into custody pursuant to Sec. 938.19, Wis. Stats.
- B. Section A. applies when the following conditions are present:
1. The person knows or should have known that the child is a child described in Section A. above; and
  2. The child has been reported to a law enforcement agency as a missing person or as a child described in Section A above.
- C. Section A. does not apply to any of the following:
1. A person operating a runaway home in compliance with Sec. 48.227, Wis. Stats.; or
  2. A person who shelters or conceals a child at the request or with the consent of the child's parent, legal guardian or legal or physical custodian except if the sheltering or concealment violates Sec. 948.31, Wis. Stats.; or
  3. A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Ch. 48 or 938, Wis. Stats., that they are sheltering or concealing such child and provides the person or agency notified with all information requested.

#### 11.04.17 Criminal Gang Activity Prohibited

- A. **Authority.** This Section is adopted pursuant to the authority granted by Sec. 66.0107 and Ch. 948, Wis. Stats.

B. **Definitions.** For purposes of this Section, the following terms are defined:

1. **Criminal Gang.** An ongoing organization, association or group of three (3) or more persons, whether formal or informal, that has as one of its primary activities, the commission of one (1) or more criminal or unlawful acts, or acts that would be criminal or unlawful if the actor were an adult, specified in Sec. 939.22(21)(a)-(s), Wis. Stats., that has a common name or common identifying sign or symbol and

whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.

2. **Pattern of Criminal Gang Activity.** Shall have the same meaning as the definition in Sec. 939.22(21), Wis. Stats., the list of offenses in Subsections a.-s. of that Section to Title 11 of this Code of Ordinances.
  3. **Unlawful Act.** Includes any criminal act or act that would be criminal if the actor were an adult.
- C. **Unlawful Activity.**
1. It is unlawful for any person to engage in criminal gang activity.
  2. It is unlawful for any person to solicit or attempt to solicit a person who has not attained the age of eighteen (18) years of age to:
    - a. Commit or attempt to commit any violation of the provisions of this Section;
    - b. Participate in criminal gang activity; or
    - c. Join a criminal gang.

#### 11.04.18 Penalties

- A. **Penalty.**
1. Any parent, guardian or person having legal custody of a minor in violation of this Section 11.04.13 who has been warned and who thereafter violates any of the provisions of that Section shall be subject to the General Penalty as set forth in Section 1.01.17 of this Code.
  2. Any minor violating the provisions of Section 11.04.13 may be referred to the proper authorities as provided in Ch. 48, Wis. Stats.
  3. Any person violating the provisions of Sections 11.04.16 and 11.04.17 shall be subject to a fine of not more than Five Hundred Dollars (\$500.00).
  4. **Penalties.** Violations of this Chapter by a person under the age of eighteen (18) years of age shall be punishable according to the General Penalty Section of 1.02.17 of this Code exclusive of the provisions therein relative to commitment in the County Jail and Secs. 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this Section shall prevent the Police Department, in their discretion, from referring cases directly to the District Attorney's office.

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## Division 2 Offenses related to Alcohol, Drugs and Tobacco Products

#### 11.04.21 Purchase or Possession of Tobacco Products and Nicotine Products

- A. **Definitions.** For the purposes of this Section:
1. **Tobacco Products.** Any tobacco related device and any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco and shall include any nicotine product or electronic smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device.
  2. **Nicotine Product.** A product that contains nicotine including, but not limited to gum, beverages or devices manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name.
  3. **Electronic Smoking Device.** Any device that can be used to deliver nicotine or any other substances to the person inhaling from the device.
- B. **Purchase by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years of age to purchase tobacco products, or to misrepresent their identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products or nicotine products.
- C. **Possession by Minors Prohibited.** It shall be unlawful for any person under the age of eighteen (18) years of age to possess any tobacco products; provided that the possession by a person under the age of eighteen (18) years of age under the direct supervision of the parent or legal guardian of such person in the privacy of the parent's or legal guardian's home shall not be prohibited.
- D. **Sale of Tobacco Products to Minors Prohibited.** No person may purchase cigarettes, tobacco products or nicotine product on behalf of or provide to any person who is under eighteen (18) years of age. A law enforcement officer shall seize any cigarettes, tobacco products, electronic smoking device or nicotine products.
- E. **Statutes Adopted.** The provisions of Secs. 254.92, 134.66 and 778.25(1)(a), Wis. Stats., are adopted by reference and incorporated herein.
- F. **Violations.** For purposes of determining previous violations, the thirty (30) month period shall be measured from the dates of violations that resulted in an imposition of a fine or a conviction. For the purpose of determining whether or not a previous violation has occurred, if more than one (1) violation occurs at the same time, all those violations shall be counted as one (1) violation. A person who commits a violation of Sections B. or C. shall be subject to a fine according to the General Penalty Section of

1.02.17 of this Code exclusive of the provisions therein relative to commitment in the County Jail. A person who commits a violation of Section D. may be:

1. Fined not more than Five Hundred Dollars (\$500.00) if the person has not committed a previous violation within thirty (30) months of the violation; or
2. Fined not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than thirty (30) days or both if the person has committed a previous violation within thirty (30) months of the violation.
3. Fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than ninety (90) days or both if the person has committed two (2) previous violations within thirty (30) months of the violation.
4. Fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for not more than nine (9) months or both if the person has committed three (3) or more previous violations within thirty (30) months of the violation.
5. In addition to the fines provided in Subsections 1.-4. above, a court shall suspend any Cigarette license issued under Title 7 of this Code of Ordinances to a person violating this Subsection for:
  - a. Not more than three (3) days, if the court finds that the person committed a violation within twelve (12) months after committing one (1) previous violation;
  - b. Not less than three (3) days nor more than ten (10) days, if the court finds that the person committed a violation within twelve (12) months after committing two (2) other violations; or
  - c. Not less than fifteen (15) days nor more than thirty (30) days, if the court finds that the person committed the violation within twelve (12) months after committing three (3) other violations.

#### 11.04.22 Possession, Manufacture and Delivery of Drug Paraphernalia

##### A. Definition.

1. **Drug Paraphernalia.** All equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body, a controlled substance, as defined in Ch. 961, Wis. Stats., in violation of this Section. It includes but is not limited to:
  - a. Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
  - b. Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
  - c. Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
  - d. Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
  - e. Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
  - f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
  - g. Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
  - h. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
  - i. Capsules, balloons, envelopes, or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
  - j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
  - k. Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
  - l. Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
    - i. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    - ii. Water pipes;
    - iii. Carburetion tubes and devices;
    - iv. Smoking and carburetion masks;
    - v. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
    - vi. Miniature cocaine spoons and cocaine vials;

- vii. Chamber pipes;
  - viii. Carburetor pipes;
  - ix. Electric pipes;
  - x. Air-driven pipes;
  - xi. Chillums;
  - xii. Bongs; and or
  - xiii. Ice pipes or chillers.
- B. Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:
1. Statements by an owner or by anyone in control of the object concerning its use.
  2. Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
  3. The proximity of the object in time and space to a direct violation of this Section.
  4. The proximity of the object to controlled substances.
  5. The existence of any residue of controlled substance on the object.
  6. Direct or circumstantial evidence of the intent of the owner, or of anyone in control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.
  7. Oral or written instructions provided with the object concerning its use.
  8. Descriptive materials accompanying the object which explain or depict its use.
  9. National and local advertising concerning its use.
  10. The manner in which the object is displayed for sale.
  11. Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.
  12. The existence and scope of legitimate uses for the object in the community;
  13. Expert testimony concerning its use.
- C. Prohibited Uses.**
1. **Possession of Drug Paraphernalia.** No person may use, or possess with the sole intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Section.
  2. **Manufacture or Delivery of Drug Paraphernalia.** No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be solely used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this Section.
  3. **Delivery of Drug Paraphernalia by a Minor to Minor.** Any person who is under eighteen (18) years of age, who violates Subsection C.3. by delivering drug paraphernalia to a person under eighteen (18) years of age who is at least three (3) years younger than the violator, is guilty of a special offense.
  4. **Exemption.** This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 161, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.
- D. Penalties.** Any person who violations Section C. shall upon conviction, the Court shall suspend the juvenile's operating privilege, as defined in Sec. 340.01(40), Wis. Stats., for not less than six (6) months nor more than five (5) years and, in addition, shall order one of the following penalties:
1. For a first violation, a fine of not more than Fifty Dollars (\$50.00) or participation in community service work under Sec. 938.34 (5g), Wis. Stats., or both.
  2. For a violation committed within twelve (12) months of a previous violation, a fine of not more than One Hundred Dollars (\$100.00) or participation in community service work under Sec. 938.34 (5g), Wis. Stats., or both.