

## Chapter 202

### PEACE AND GOOD ORDER

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[HISTORY: Adopted by the Village Board of the Village of Albany as Title 11, Ch. 1 and Secs. 11-2-5, 11-2-9, 11-2-11 through 11-2-15, 11-3-1 and 11-3-3 through 11-3-12 of the 1992 Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Disorderly conduct -- See Ch. 110.

Loitering -- See Ch. 173.

Minors -- See Ch. 177.

Noise -- Ch. 186.

#### §202-1. Offenses against state laws subject to forfeiture.<sup>1</sup>

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 village, provided that the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under the general penalty provisions of this Code.<sup>2</sup> Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this Code:

48.345	Disposition of child adjudged in need of protection
118.07	Safety requirements
118.08	School zones; crossings
118.09	Safety zones
118.10	School safety patrols
118.105	Control of traffic on school premises

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<sup>1</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>2</sup>Editor's Note: See Chapter 1, General Provisions, §1-19.

118.11	School fences
118.123	Reports and records; forfeitures
118.163	Municipal truancy and school dropout ordinances
134.65	Cigarette and tobacco products retailer license
134.66	Restrictions on sale or gift of cigarettes or tobacco products
167.10	Regulation of fireworks
175.25	Storage of junked vehicles
254.76	Causing fires by tobacco smoking
938.17	Jurisdiction over traffic, boating, snowmobile and all-terrain vehicle
violations and over civil law and ordinance violations	
938.343	Disposition of juvenile adjudged to have violated a civil law or an ordinance
938.344	Disposition; certain intoxicating liquor, beer and drug violations, respectively
938.983	Purchase or possession of tobacco products prohibited
939.05(2)(b)	Aiding and abetting
939.22	Words and phrases defined
940.19(1)	Battery; substantial battery; aggravated battery
940.291	Law enforcement officer; failure to render aid
941.01	Negligent operation of vehicle
941.10	Negligent handling of burning materials
941.12(2),(3)	Interfering with fire fighting
941.13	False alarms
941.20(1)	Endangering safety by use of dangerous weapon
941.23	Carrying concealed weapon
941.235	Carrying firearm in public building
941.24	Possession of switchblade knife
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
942.05	Opening letters
943.01(1)	Damage to property
943.11	Entry into locked vehicle
943.125	Entry into locked coin box
943.13	Trespass to land
943.14	Criminal trespass to dwellings
943.145	Criminal trespass to a medical facility
943.15	Entry onto a construction site or into a locked building, dwelling or room
943.20(3)(a)	Theft
943.21(3)(a)	Fraud on hotel or restaurant keeper or taxicab operator
943.22	Use of cheating tokens
943.23(4),(5)	Operating vehicle without owner's consent
943.34(1)(a)	Receiving stolen property
943.37	Alteration of proper identification marks
943.38(3)	Forgery
943.41	Financial transaction card crimes
943.50(4)(a)	Retail theft
943.55	Removal of a shopping cart
944.15	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

944.30	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
946.69	Falsely assuming to act as public officer or employee or a utility employee
946.70	Impersonating peace officer
946.72(2)	Tampering with public records and notices
947.01	Disorderly conduct
947.012	Unlawful use of telephone
947.013	Harassment
947.06	Unlawful assemblies and their suppression
948.01	Definitions (relating to crimes against children)
948.09	Sexual intercourse with a child age 16 or older
948.10	Exposing genitals or a pubic area
948.11(1)(b)	Exposing a child to harmful material
948.21	Neglecting a child
948.40	Contributing to the delinquency of a child
948.50	Strip search by school employee
948.51(3)(a)	Hazing
948.60	Possession of a dangerous weapon by a person under 18
948.61(2)(a)	Dangerous weapons other than firearms on school premises
948.63	Receiving property from a child
951.01	Definitions (relating to crimes against animals)
951.015	Construction and application
951.02	Mistreating animals
951.03	Dognapping and 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	Instigating fights between animals
951.09	Shooting at caged or staked animals
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	Animals; neglected or abandoned; police powers
951.16	Investigation of cruelty complaints
951.17	Reimbursement for expenses

**§202-2. Obstructing streets and sidewalks.<sup>3</sup>**

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<sup>3</sup>Editor's Note: See Ch. 232, Streets and Sidewalks; Ch. 260, Vehicles and Traffic.

A. Obstructing streets. No person shall obstruct, loiter, cause a nuisance or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the village in such a manner as to:

(1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;

(2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or

(3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.

B. Obstructing of sidewalk prohibited. No person shall block any sidewalk or bridge by obstructing the same so that it is impossible for a pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street.

C. Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

LOITER -- To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

NUISANCE -- Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Albany.

OBSTRUCT -- To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel or placing any object or vehicle whatsoever on such sidewalk.

SIDEWALK -- Any sidewalk owned or on village property or right-of-way. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.<sup>4</sup>

D. Free speech. This section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

### **§202-3. Unauthorized presence on school property.**

A. Unauthorized presence.

(1) No student who is under suspension, expulsion or other disciplinary procedures excluding him from attending any school located within the village or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person" shall be present within any school building or upon any school grounds without having first secured authorization to be there from the principal

<sup>4</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

or other person in charge of the school building or student grounds, except while in direct route to secure such authorization.

(2) Any unauthorized person shall who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection A(1), shall be guilty of trespass.

(3) "Authorized person" shall include:

(a) Any person who is present at any school building or school grounds for the purpose previously authorized by the school or its designee.

(b) Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel.

(c) Any person utilizing a designated area for attending an athletic or other organized school event.

B. Disorderly conduct on public school property.

(1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

(2) Nonstudents, students from schools other than the school on the property or students from a school who are not in compliance with the school system's published rules and regulations shall be considered in violation of this section. The published rules and regulations of the school system are incorporated as if fully set forth herein.

(3) All entrances to the school buildings referred to in Subsection A shall be posted with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."

(4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a village summons or citation that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.

C. Loitering near school prohibited. No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Albany or upon any school district grounds or within adjacent posted school zones on any day when such schools are in session.

D. Possession of intoxicating liquor and fermented malt beverages. No person shall possess intoxicating liquor or fermented malt beverages while on any school property.

E. Definitions. As used in this section, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended.

LOITER -- To sit, stand, loaf, lounge, wander or stroll in an aimless manner or to stop, pause or remain in an area for no obvious reason.

NUISANCE -- Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Albany.

**§202-4. Failure to obey lawful order; resisting an officer.**

A. Lawful orders. It shall be unlawful for any person to fail to obey the direction or order of a police officer while such police officer is acting in an official capacity in carrying out his or her duties.

B. Resisting or interfering with officer prohibited. It shall be unlawful for any person to resist or in any way interfere with any police officer or member of the Police Department or any person called to assist such officer; or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his duty; or to in any way interfere with or hinder or prevent him from discharging his duty as such officer or assistant or to offer or endeavor to do so; or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody or to try to persuade any person to escape from the custody of such officer or to rescue or attempt to rescue any person so in custody; or to fail to obey the order or direction of such officer while such officer is acting in his official capacity in carrying out his duties.

**§202-5. Possession of marijuana.**

A. No person shall possess 25 grams or less of marijuana, as defined in W.S.A. s. 961.01(14), unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by W.S.A. ch. 961.<sup>5</sup>

B. For the purpose of this section, the following terms shall have the meanings indicated:

**PRACTITIONER:**

(1) A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

(2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

C. This section does not apply to any person who is charged with possession of more than 25 grams of marijuana or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana in the State of Wisconsin.

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<sup>5</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

State Law Reference: W.S.A. s. 66.051(4).

**§202-6. Crossing a police line.**

No individual shall cross a police or fire line that has been so designated by a banner, signs or other similar identification.

**§202-7. Harassment.**

A. Harassment. No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:

(1) Strike, shove, kick or otherwise subject the person to physical contact or attempt or threaten to do the same.

(2) Engage in a course of conduct or repeatedly commit acts which harass or intimidate the person and which serve no legitimate purpose.

B. Harassing or obscene telephone calls. Whoever commits any of the following acts shall be subject to the penalty provisions contained in Chapter 1, General Provisions, §1-19:

(1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent.

(2) Makes a telephone 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 telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number or numbers.

(4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers.

(5) Knowingly permits any telephone under his control to be used for any purpose prohibited by this section.

(6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.

**§202-8. Open cisterns, wells, basements or other dangerous excavations.**

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person, and any cover shall be of a design, size and weight that the same cannot be removed by small children.

**§202-9. Destruction or theft of property.**

A. Destruction of property. No person shall willfully injure or intentionally deface, destroy or unlawfully remove or interfere with any property belonging to the Village of Albany, Albany School District or to any private person without the consent of the owner or proper authority, nor shall any person or organization place or permit to be placed any sign, poster, advertisement, notice or other writing upon any utility or ornamental lightpole belonging to the village without the consent of proper authority. Any signs, posters, advertisements, notices or other writings so placed shall be removed by law enforcement authorities and the placing person or organization cited for violation of this section.

B. Parental liability. Pursuant to W.S.A. s. 895.035, the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$2,500.

C. Theft of property. No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without that other person's consent and with intent to deprive the owner permanently of possession of such property.

#### **§202-10. Abandoned refrigerators.<sup>6</sup>**

No person shall leave or permit to remain outside of any dwelling, building or other structure or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snaplock or other locking device which may not be released from the inside without first removing said door or lid, snaplock or other locking device from said icebox, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

#### **§202-11. Theft of library material.**

A. Definitions. For the purposes of this section, certain words and terms are defined as follows:

ARCHIVES -- A place in which public or institutional records are systematically preserved.

LIBRARY -- Any public library, library of an educational or historical organization or society or museum, and specifically the public libraries in the Village of Albany and school libraries.

LIBRARY MATERIAL -- Includes any book, plate, picture photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual materials in any format, magnetic or other tapes, electronic data processing records or other tapes, artifacts or other documents, written or printed materials, regardless of physical form of characteristics, belonging to, on loan to or otherwise in the custody of a library.

B. Possession without consent prohibited. Whoever intentionally takes and carries away, transfers, conceals or retains possession of any library material without the consent of a library official, agent or employee and with intent to deprive the library of possession of the material may be subject to a forfeiture as provided by in Chapter 1, General Provisions, §1-19.

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<sup>6</sup>Editor's Note: See also Ch. 257, Vehicles and Appliances, Abandoned and Junked.

The failure to return library material after its proper return date, after written notice from the library and Village Attorney, shall be deemed to be theft. Notice shall be considered given when written notice is mailed to the last known address of the person with the overdue material; the notice date shall be the date of mailing.

C. Concealment. The concealment of library material beyond the last station for borrowing library material in a library is evidence of intent to deprive the library of possession of the material. The discovery of library material which has not been borrowed in accordance with the library's procedures or taken with consent of a library official, agent or employee and which is concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing the material.

D. Detention based on probable cause. An official or adult employee or agent of a library who has probable cause for believing that a person has violated this section in his or her presence may detain the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer or to the person's parent or guardian in the case of a minor. The detained person shall be promptly informed of the purpose of the detention and be permitted to make telephone calls, but shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer, who may conduct a lawful interrogation of the accused person. Compliance with this section entitles the official, agent or employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

E. Damaging material prohibited. No person shall mar, deface or in any other way damage or mutilate any book, periodical, pamphlet, picture or other article or property belonging to or in charge of the library. Any person convicted of violating this subsection shall be subject to the penalties as set forth in Chapter 1, General Provisions, §1-19.

F. Return demanded. No person shall fail, on demand, to return any book, periodical, pamphlet, picture or other articles or property belonging to or in charge of the Albany Public Library according to the rules or regulations duly made and adopted by the Library Board, and no person shall remove from the library any book, periodical, pamphlet, picture or other articles or property without first having it charged as provided by such rules and regulations. Any person convicted of violating any provision of this subsection shall be subject to the penalties as set forth in Chapter 1, General Provisions, §1-19.

State Law Reference: W.S.A. s. 943.61.

## **§202-12. Cemetery regulations.**

A. Purpose and definition. In order to protect cemetery areas within the village from injury, damage or desecration, these regulations are enacted. The term "cemetery" as hereinafter used in this section shall include all cemetery property, grounds, equipment and structures, both privately and publicly owned, which are located within the Village of Albany.

B. Authority to establish rules and regulations. The cemetery property owner shall have the authority to establish reasonable rules and regulations to regulate and govern the operation of any cemetery in accordance with state law and this Code. The cemetery property owner shall reserve the right to prohibit and regulate the planting or placement of any flowers, plants, vines, shrubs, trees, flower pots, urns or other objects on cemetery property. Placements of any such plantings, containers or objects shall be in accordance with established regulations of the cemetery property owner.

C. Specific regulations.

(1) Disturbing cemetery property. No person shall cut, remove, damage or carry away any flowers, plants, vines, shrubs or trees from any cemetery lot or property except the owner of the cemetery lot or a person with the cemetery lot owner's consent or any cemetery employee or representative engaged in official cemetery duties for the cemetery owner; nor shall any person without proper authority remove, deface, mark or damage in any manner any cemetery markers, headstones, monuments, fences or structures; nor shall any person without proper authority remove, damage or destroy any vases, flower pots, urns or other objects which have been placed on any cemetery lot; nor shall any person move or remove any cemetery equipment without the owner's consent.

(2) Protection of cemetery property. No person shall trap in any cemetery without specific written authorization of the owner; nor shall any person kill, injure or disturb or attempt to injure or disturb any animals, birds or waterfowl, wild or domestic, within any cemetery in any manner except as provided by this Code; nor shall any person climb any tree, break, cut down, trample upon, remove or in any manner injure, deface, write upon or in any manner damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign or other property within any cemetery. No picnic, parties or similar gatherings are permitted.

(3) Motor vehicles. Motor vehicles are restricted to the roads and drives and parking areas. Except for authorized maintenance vehicles, no person shall operate an unlicensed or licensed motorized vehicle on any cemetery property outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically permitted. It shall be unlawful for a person to engage in any off-roadway operation of a motorized vehicle on cemetery property without the owner's consent.

(4) Speed limit. No person shall operate any motorized vehicle in any cemetery in excess of 15 miles per hour unless otherwise posted.

(5) Parking. No person, without the owner's consent, shall park any motor vehicle in any cemetery on any grassy or seeded area or upon any location except a designated parking area; nor shall any person park a motor vehicle on cemetery property for any purpose except engaging in official cemetery business. Any unlawfully parked motor vehicle may be towed or removed by the cemetery property owner at the vehicle owner's expense.

(6) Littering prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any cemetery without the owner's consent.

(7) Pets. Pets, including animals of any species, and horses are prohibited in any cemetery.

(8) Sound devices. No person shall operate or play any amplifying system or sound device in any cemetery without the owner's consent.

(9) Authorized notices. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any cemetery, except cemetery regulations and other signs authorized by the owner. No person shall remove, deface or damage in any manner any official sign or notice posted in any cemetery.

(10) Loitering prohibited. No person shall loiter or cause a nuisance or engage in any sport or exercise on any cemetery property without the owner's consent.

(11) Alcoholic beverages prohibited. No person shall consume or have in his possession any open container containing an alcohol beverage upon any cemetery property within the village unless the property is specifically named as being part of a licensed premises.

(12) Play vehicles prohibited. No person shall operate or make use of a play vehicle upon any cemetery property without the owner's consent. As used in this section, a "play vehicle" shall mean any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.

(13) Presence after hours prohibited. No person shall be present upon any cemetery property without the owner's consent during posted hours when the cemetery is not open to the public.

### **§202-13. Damage to public property.**

A. Damaging public property. No person shall climb any tree or pluck any flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure or deface, write upon, defile or ill use any tree, shrub, flower, flower bed, turf, fountain, ornament, statue, building, fence, apparatus, bench, table, official notice, sign, bridge, structure or other property within any park or parkway, or in any way injure, damage or deface any public building, sidewalk or other public property in the Village of Albany.

B. Breaking of streetlamps or windows. No person shall break glass in any streetlamps or windows of any building owned or occupied by the village.

C. Damaging fire hydrants and water mains. No person shall, without the authority of village authorities, 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.

### **§202-14. Retail theft.**

A. Whoever intentionally alters indicia of price or value of merchandise or takes and carries away, transfers, conceals or retains possession of merchandise held for resale by a merchant without consent and with intent to deprive the merchant permanently of possession or the full purchase price may be penalized as provided in Subsection D.

B. The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant permanently of possession of such merchandise without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

C. A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer or to his parent or guardian if a minor. The detained person must be promptly informed of the purpose for the

detention and may make phone calls, but he shall not be interrogated or searched against his will before the arrival of a police officer, who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee affecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

D. If the value of the merchandise does not exceed \$100, any person violating this section shall forfeit not more than \$500. If the value of the merchandise exceeds \$100, this section shall not apply, and the matter shall be referred to the District Attorney for criminal prosecution.<sup>7</sup>

State Law Reference: W.S.A. s. 943.50.

### **§202-15. Issuance of worthless checks.**

A. Whoever issues any check or other order for the payment of money less than \$500 which, at the time of issuance, he or she intends shall not be paid is guilty of a violation of this section.

B. Any of the following is prima facie evidence that the person, at the time he or she issued the check or other order for payment of money, intended it should not be paid:

(1) Proof that, at the time of issuance, the person did not have an account with the drawee;

(2) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order; or

(3) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee, and the person failed within five days after receiving notice of nonpayment or dishonor to pay the check or other order.

C. This section does not apply to a postdated check or to a check given in past consideration, except a payroll check.

### **§202-16. Trespass to a dwelling or land.**

A. Trespass to land. No person shall enter or remain on any land after having been notified by the owner or occupant not to remain on the premises.

B. Trespass to dwelling. No person shall intentionally enter the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace.

### **§202-17. Regulation of smoking.<sup>8</sup>**

The provisions of W.S.A. ch. 101.123, relating to the regulation of smoking and clean indoor air, except provisions therein relating to penalties to be imposed, are hereby adopted by reference

<sup>7</sup>Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

<sup>8</sup>Editor's Note: See also Ch. 219, Smoking.

and made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section. Any future amendment, revisions or modifications of the statutes incorporated herein are intended to be made a part of this section.

### **§202-18. Theft.**

No person shall intentionally take and carry away, use, transfer, conceal or retain possession of movable property of another without his consent and with intent to deprive the owner permanently of possession of such property.

### **§202-19. Violations and penalties.**

#### **A. Enforcement.**

(1) Penalties. In addition to the general penalty of this Code in Chapter 1, General Provisions, §1-19, or any other 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 §202-9 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 shall prevent the Police Department from referring violations of the provisions of this chapter to the District Attorney's office in the interest of justice.

(2) Stipulation of guilt or no contest. Stipulations of guilt or no contest may be made by persons arrested for violations of this chapter in accordance with W.S.A. s. 66.12(1)(b). Stipulations shall conform to the form contained on the Uniform Ordinance Citation. Stipulations may be accepted by the Police Department.

(3) Deposits. Any person stipulating guilt or no contest under Subsection A(2) shall deposit a forfeited penalty as provided in a schedule established by the Chief of Police and approved by the Village Board. Deposits may be brought or mailed to the office of the Police Department as directed by the arresting officer.

#### **B. Attempt.**

(1) Whoever attempts to commit an act prohibited by this chapter may be required to forfeit amounts not to exceed 1/2 the maximum penalty for the completed act.

(2) An attempt to commit an act prohibited by this chapter 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 he does acts towards the commission of the violation which demonstrate unequivocally, under all the circumstances, that he formed that intent and would commit the violation except for the intervention of another person or some other extraneous factor.

#### **C. Parties to acts prohibited.**

(1) Whoever is concerned in the commission of an act prohibited by this chapter is a principle and may be charged with and convicted of the commission of said act

although he did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other act prohibited by this chapter.

(2) A person is concerned in the commission of an act prohibited by this chapter if he:

(a) Directly commits the act;

(b) Intentionally aids and abets the commission of it; or

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