

CHAPTER 11

PUBLIC PEACE AND ORDER

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11.01 Certain State Criminal Laws Adopted. In order to promote public peace and order the following provisions of the Wisconsin Criminal Code are hereby incorporated into the Sauk County Code of Ordinances.

11.02 Definitions. In this chapter:

(1) MOVEABLE PROPERTY. The meaning given in § 943.20(2)(a) Stats.

(2) PROPERTY. The meaning given in § 943.20(2)(b) Stats.

(3) PROPERTY OF ANOTHER. The meaning given in § 943.20(2)(c) Stats.

11.03 Disorderly Conduct. Whoever, in a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance may be penalized as provided in this chapter.

11.04 Damage to Property. Whoever intentionally causes damage to any physical property of another without the person's consent may be penalized as provided in this chapter.

11.05 Theft. Whoever intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the person's consent and with intent to deprive the owner permanently of possession of such property may be penalized as provided in this chapter.

11.06 Issue of Worthless Check. (1) Whoever issues any check or other order for the payment of money which, at the time of issuance, he or she intends shall not be paid may be penalized as provided in this chapter.

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

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

(b) 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 (5) days after receiving notice of nonpayment or dishonor to pay the check or other order.

(c) 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 (5) days after receiving notice of nonpayment or dishonor to pay the check or other order.

(3) This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check.

(4) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under § 973.20 Stats. A victim may not be compensated under this section and § 943.245 Stats.

11.07 Fraud on Hotel or Restaurant Keeper. (1) Whoever does either of the following may be penalized as provided in this chapter:

(a) Having obtained any beverage, food, lodging or other service or accommodation at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally absconds without paying for it.

(b) While a guest at any campground, hotel, motel, boarding or lodging house, or restaurant, intentionally defrauds the keeper thereof in any transaction arising out of the relationship as guest.

(2) Under this section, prima facie evidence of an intent to defraud is shown by:

(a) The refusal of payment upon presentation when due, and the return unpaid of any bank check or order for the payment of money, given by any guest to any campground, hotel, motel, boarding or lodging house, or restaurant in payment of any obligation arising out of the relationship as guest. Those facts also constitute prima facie evidence of an intent to abscond without payment.

(b) The failure or refusal of any guest at a campground, hotel, motel, boarding or lodging house or restaurant to pay, upon written demand, the established charge for any beverage, food, lodging, or other service or accommodation actually rendered.

(c) The giving of false information on a lodging registration form or the giving of false information or presentation of false or fictitious credentials for the purpose of obtaining any beverage or food, lodging or credit.

(d) The drawing, endorsing, issuing or delivering to any campground, hotel, motel, boarding or lodging house or restaurant of any check, draft or order for payment of money upon any bank or other depository, in payment of established charges for any beverage, food, lodging or other service or accommodation knowing at the time that there is not sufficient credit with the drawee bank or other depository for payment in full of the instrument drawn.

11.08 Retail Theft. (1) In this section:

(a) "Merchant" includes any "merchant" as defined in § 402.104(3) Stats. or any innkeeper, motel keeper or hotel keeper.

(b) "Value of merchandise" means:

1. For property of the merchant, the value of the property.

2. For merchandise held for resale, the merchant's stated price of the merchandise, or the event of altering, transferring or removing a price marking or causing a cash register or other sales device to reflect less than the merchant's stated price, the difference between the merchant's stated price of the merchandise and the altered price.

(2) Whoever intentionally alters indicia of price or value of merchandise or who takes and carries away, transfers, conceals or retails possession of merchandise held for resale by a merchant or property of the merchant without his or her consent and with intent to deprive the merchant permanently of possession or the full purchase price of the merchandise, may be penalized as provided in this chapter.

(3) The intentional concealment of unpurchased merchandise which continues from one (1) 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 such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

(4) In any action or proceeding for violation of this section, duly identified and authenticated photographs of merchandise which was the subject of the violation may be used as evidence in lieu of producing the merchandise.

(5) In addition to the other penalties provided for violation of this section, a judge may order a violator to pay restitution under § 973.20 Stats. A victim may not be compensated under this section and § 943.51 Stats.

11.09 Resisting or Obstructing Officer. (1) Whoever knowingly resists or obstructs an officer while such officer is doing any act in an official capacity and with lawful authority may be penalized as provided in this chapter.

(2) In this section:

(a) "Obstructs" includes, without limitation, knowingly giving false information to the officer with intent to mislead him in the performance of his duty including the service of any summons or civil process.

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

11.10 Possession of Controlled Substance. (1) It is a violation for any person to possess tetrahydrocannabinol, listed at Wis. Stat. § 961.14(4)(t) 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 law. Whoever violates this section may be penalized as provided in this chapter.

(2) It is not necessary for the County to negate any exemption or exception in this section in any complaint or other pleading or in any trial, hearing or other proceeding under this section. The burden of proof of any exemption or exception is upon the person claiming it.

(3) No liability is imposed by this section upon any authorized state, County or municipal officer or employee engaged in the lawful performance of his or her duties.

11.11 Possession of Drug Paraphernalia. 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 this chapter. Whoever violates this section may be penalized as provided in this chapter.

11.12 Absconding Without Paying Rent. (1) Whoever having obtained the tenancy as defined in § 704.01(4) Stats., of residential property he or she is entitled to occupy, intentionally absconds without paying all current

and past rent due, may be penalized as provided in this chapter.

(2) A person has a defense to prosecution under (1) if he or she has provided the landlord with a security deposit that equals or exceeds the amount that the person owes the landlord regarding rent and damages to property.

(3) A person has a defense to prosecution under (1) if within five (5) days after the day he or she vacates the rental premises, he or she pays all current and past rent due or provides the landlord in writing a complete and accurate forwarding address.

(4) When the existence of a defense under (2) or (3) has been placed and issued by the trial evidence, the County must prove that the facts constituting the defenses do not exist in order to sustain a finding under (1).

(5) (1) does not apply to any tenant against whom a civil judgment has been entered for punitive damages because the tenant left the premises with unpaid rent.

11.13 Curfew Hours for Minors. (1) Definitions. In this section:

(a) "Curfew hours" means:

1. 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 5:00 a.m. the following day.

2. 11:00 p.m. on any Friday or Saturday until 5:00 a.m. the following day.

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

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

(d) "Guardian" means:

1. A person who has been appointed by a court to have care, custody and control of the person of a minor.

2. Public or private agency with whom a minor has been placed by a court.

(e) "Loiter". To congregate, linger, wander, stand, delay, walk or stroll about aimlessly, or to remain idle in essentially one (1) location in a manner and under circumstances manifesting an unnecessary or aimless purpose.

(f) "Minor". A person who has not attained the age of 18 years.

(g) "Operator". Any individual, firm, association, partnership, company or corporation operating, managing or conducting any establishment. The term "*operator*" includes the members or partners of an association, partnership or company and the officers of a corporation.

(h) "Parent". A person who is:

1. A biological parent, adoptive parent, or stepparent of a minor.

2. At least 18 years of age and who is authorized by a person listed in subsection 1. or by a guardian to have the care, custody and control of a minor.

(i) "Public place". Any area visible to public view and includes, but is not limited to, streets, tree banks, sidewalks, alleys, parks, vacant lots, driveways, parking lots, and buildings open to the general public, and also includes, but is not limited to, the doorways, entrances, common areas and the grounds of schools, hospitals, apartment houses, office buildings, transport facilities and shops and any other public place.

(j) "Remain" means to:

1. Linger or stay.

2. Fail to leave a premises or establishment when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises or establishment.

(k) "Serious bodily injury". Bodily injury which causes or contributes to the death of a human being or which creates a substantial risk of death or which causes serious permanent disfigurement or which causes a permanent or protracted loss or impairment of the function of any bodily member or organ or other serious bodily injury.

(2) Offenses.

(a) No minor shall loiter, idle, remain or be present in any public place or on the premises of any establishment within Sauk County during curfew hours.

(b) No parent or guardian of a minor shall knowingly permit, or by insufficient control allow, the minor to loiter, idle, remain or be present in any public place or on the premises of any establishment within the curfew hours.

(c) No owner, operator, nor employee of an establishment shall knowingly allow a minor to loiter, idle or remain upon the premises of the establishment during curfew hours.

(3) Exceptions.

(a) This section shall not apply when the minor is:

1. Accompanied by the minor's parent(s) or guardian.

2. In a motor vehicle involved in interstate travel.

3. Engaged in an employment activity or going to or returning from an employment activity, without any detour or stop.

4. Involved in an emergency.

5. On the residence property of the minor.

6. Going to or returning from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by a City, Village, School District, church or religious entity, a civic organization, or other similar entity that takes responsibility for the minor within Sauk County.

7. Exercising First Amendment rights protected by the United States Constitution or the Wisconsin Constitution.

8. Married.

(b) This section shall not apply to the owner, operator nor to an employee of an establishment that promptly notifies law enforcement that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(c) This section shall not be effective in any incorporated municipality, which has a population of 5,000 persons or more, or which has its own or joint police department or other law enforcement agency other than the Sauk County Sheriff's Department providing primary law enforcement to the municipality.

(d) This section shall not be effective in any incorporated municipality which has a population under 5,000 persons and which does

not have its own or joint police department or other law enforcement agency providing primary law enforcement to the municipality other than the Sauk County Sheriff's Department, unless the governing body of such municipality passes a resolution authorizing the enforcement of this ordinance within the limits of the municipality.

(4) Enforcement action.

(a) A law enforcement officer is authorized to issue a citation in accordance with Chapter 20 of the Sauk County Code of Ordinances, to a person in violation of subsection (2) of this ordinance.

1. A law enforcement officer shall not issue a citation nor make an arrest under this section unless the officer reasonably believes that an offense has occurred and that based upon the circumstances, no defense in Sub. (3) exists.

2. A minor alleged to be in violation of this section may be taken to a law enforcement agency for proper identification.

(b) A minor in violation of this section may be detained by law enforcement personnel until such time that the parent or guardian has received notification and has reported to the law enforcement agency, where the minor is detained, for the purpose of taking the minor into custody. The parent or guardian shall sign a release for the minor if such release is requested by law enforcement personnel.

11.14 Regulation of Fireworks. (1) Authority. This section is adopted under authority granted by §§ 59.54(6) and 167.10(5) Stats.

(2) Definitions. In this section: "Fireworks" has the meaning given in § 167.10(1) Stats. which is hereby adopted by reference.

(3) Sale of fireworks. Except as provided in §§ 167.10(2) and 167.10(4) Stats., no person shall sell, or possess with the intent to sell, fireworks.

(4) Use of fireworks. Except as provided in § 167.10(3) Stats., no person shall possess or use fireworks.

(5) Use of certain devices. Pursuant to § 167.10(3) Stats., no person may use fireworks or devices listed in §§ 167.10(1)(e) to (g), 167.10(i) to (n), and 167.10(3) Stats., if the display is open to the general public.

(6) Miscellaneous provisions.

(a) **Applicability.** This section shall apply to all unincorporated areas of Sauk County and to those incorporated areas of Sauk County that have not enacted their own ordinance regulating fireworks.

(b) **Enforcement.** This section shall be enforced by the Sauk County Sheriff's Department or its designee(s).

(c) **Injunction order.** Sauk County may petition the Circuit Court for an Order enjoining violations of this section.

(d) **Seizure of fireworks.** Fireworks stored, handled, sold, possessed or used by a person who violates this section shall be seized. The fireworks shall be destroyed after conviction for a violation or otherwise returned to the owner.

11.15 Penalty. The penalty for violating any section of this chapter shall be a forfeiture of not less than ten dollars (\$10.00) nor more than one thousand dollars (\$1,000.00) together with court costs and fees prescribed by §§ 814.63(1) and (2) Stats., penalty assessment imposed by § 165.87 Stats., jail assessment imposed by § 53.46(1) Stats. and automation fee imposed by § 814.635 Stats.

11.16 Enforcement. (1) Actions under this chapter shall be prosecuted in the name of Sauk County by the Sauk County District Attorney in the Circuit Court of Sauk County in accordance with the provisions of Chapter 778 Wisconsin Statutes.

(2) All actions under this chapter shall be commenced by the issuance and filing of a citation prepared in accordance with Chapter 20 of the Sauk County Code of Ordinances.

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