

TITLE VIII: OFFENSES AND NUISANCES

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CHAPTER 1: OFFENSES

Section

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8-1-1 DISCHARGING AND CARRYING FIREARMS AND GUNS PROHIBITED.

No person, except a sheriff, constable, police officer or their deputies, shall fire or discharge any firearm, rifle, spring or air gun within the village or have any firearm, rifle, spring or air gun in his or her possession or under his or her control unless it is unloaded and knocked down or enclosed within a carrying case or other suitable container, provided that this section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board or the firing or discharging of BB guns upon private premises by persons over 16 or under the direct personal supervision of a parent or guardian. This section shall be deemed to prohibit hunting within the village, provided that the Village Board may issue written permits to owners or occupants of private premises to hunt or shoot on the premises if he or she finds the privileges necessary for the protection of life or property and subject to the safeguards as he or she may impose for the safety of the lives and property of other persons within the village.

' 8-1-2 THROWING OR SHOOTING OF ARROWS, STONES AND OTHER MISSILES PROHIBITED.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the Village of Almond.

' 8-1-3 SALE AND DISCHARGE OF FIREWORKS RESTRICTED.

(A) *Private use and sale.* No person shall sell, expose or offer for sale, use, keep, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the village unless he or she shall be authorized by a fireworks permit as provided in ' 6-7-1 of this code of ordinances. The term **FIREWORKS** as used in this section shall be defined as provided in Wis. Stats. ' 167.10(1), and shall be deemed to include all rockets or similar missiles containing explosive fuel.

(B) *Fireworks permits.* Fireworks, other than those prohibited by the laws of the State of Wisconsin, may be used and displayed in open fields, parks, rivers, lakes and ponds by public authorities, fair associations, amusement parks, park boards, civic organizations and other groups of individuals when a permit for the display has been granted by the Village President pursuant to ' 6-7-1.

' 8-1-4 OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED.

No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the village in such manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

' 8-1-5 FALSE ALARMS PROHIBITED.

No person shall give or send or cause to be given or sent in any manner any alarm of fire or other emergency which he or she knows to be false.

' 8-1-6 GAMBLING, FRAUDULENT DEVICES AND PRACTICES PROHIBITED.

All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the village. Any law enforcement officer is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the village and to dispose thereof after a judicial determination that the device was used solely for gambling or found in actual use for gambling.

‘ 8-1-7 DESTRUCTION OF PROPERTY PROHIBITED.

(A) No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature within the village and belonging to the village or its departments, or to any private person, without the consent of the owner or proper authority.

(B) In addition to any penalty imposed for violation of this section, any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent or parents of any unemancipated minor child who violates this section may also be held liable for the cost of replacing or repairing the damaged or destroyed property in accordance with Wis. Stats. ‘ 895.035.

‘ 8-1-8 LITTERING PROHIBITED.

No person shall throw any weeds, sod, glass, rubbish, waste, filth or other litter upon the streets, alleys, highways, public parks or other property of the village, or upon any private property owned by him or upon the surface of any body of water within the village.

‘ 8-1-9 CURFEW.

(A) *Legislative purposes.* Pursuant to Wis. Stats. ‘ 59.45(6), the County Board of Supervisors has determined that there has been an increase in juvenile violence, juvenile gang activity and crime by persons under the age of 18 in the county and persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of other perpetrators of crime. The county has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities, and a nighttime curfew for those under the age of 17 will be in the interest of the public health, safety and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the county.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COUNTY. Portage County, Wisconsin.

CURFEW HOURS. 11:00 p.m. until 5:00 a.m. the following day, each day of the week.

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, automobile accident, or any situation requiring immediate action to prevent serious bodily injury (defined below) or loss of life.

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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.

GUARDIAN.

- (a) A person who, under court order, is the guardian of the person or a minor; or
- (b) A public or private agency with whom a minor has been placed by a court.

MINOR. Any person under 17 years of age.

OPERATOR. Any entity, individual, firm, association, partnership or cooperation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officer of a corporation.

PARENT. A person who is:

- (a) A natural parent, adoptive parent or step-parent to another person; or
- (b) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

PUBLIC PLACE. Any place to which the public or a substantial group of the public has access and includes, but is not limited to: streets, highways, and the common areas of school, hospitals, apartment houses, office buildings, transport facilities and shops.

REMAIN.

- (a) Linger or stay; or
- (b) Failure to leave the premises when requested to do so by a law enforcement officer or the owner, operator or other person in control of the premises.

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

(C) *Violations.*

- (1) A minor commits a violation if he or she remains in any public place or on the premises of any establishment within the county during curfew hours.
- (2) A parent or guardian of a minor commits an violation if he or she knowingly permits, or by insufficient control, allows the minor to remain in any public place or on the premises of any establishment within the county during curfew hours.

(3) The owner, operator, or any employee of an establishment commits a violation if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(D) *Exceptions.*

(1) It is not a violation under this section if the minor was:

(a) Accompanied by the minor=s parent or guardian;

(b) On an errand at the direction of the minor=s parent or guardian without any detour or stop;

(c) In a motor vehicle involved in interstate travel;

(d) Engaged in any employment activity or going to or returning home from an employment activity without any detour or stop;

(e) Involved in an emergency;

(f) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the county, or by any city, village or town, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the county, or by any city, village or town, a civic organization or another similar entity that takes responsibility for the minor.

(g) Going to, or attending or returning home from a movie theatre, without any detour or stop.

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

(E) *Enforcement.* Before taking any enforcement action under this section, a law enforcement officer shall ask the offender=s age and reason for being in the public place. The officer shall not issue a citation under this section unless the officer reasonably believes that a violation has occurred and that, based on any response and other circumstances.

(F) *Penalties.* Any person who violates a provision of this section is guilty of a separate violation for each day or part of a day during which the violation is committed, continued or permitted. Each violation, upon conviction, is punishable by a forfeiture of not less than \$25 nor more than \$300, plus costs and assessments.

' 8-1-10 CRUELTY TO ANIMALS AND BIRDS PROHIBITED.

No person except a peace officer or health or humane officer in pursuit of his or her duties, shall within the village shoot or kill or commit an act of cruelty on any animal or bird.

' 8-1-11 OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS PROHIBITED.

No person shall have or permit on any premises owned or occupied by him or her any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All those 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.

' 8-1-12 ABANDONED OR UNATTENDED ICE BOXES AND THE LIKE, PROHIBITED.

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 or her control in a place accessible to children, any abandoned, unattended or discarded ice box, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside without first removing the door or lid, snap lock or other locking device from the ice box, refrigerator or container, unless the container is displayed for sale on the premises of the owner or his or her agent and is securely locked or fastened.

' 8-1-13 DISORDERLY CONDUCT.

It shall be unlawful for any person within the corporate limits of the village to violate any of the following divisions of this section:

(A) In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons;

(B) Act in a violent or tumultuous manner toward another whereby any person is placed in fear of safety of his or her life, limb or health;

(C) Act in a violent or tumultuous manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;

(D) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another; or

(E) By acts of violence interfere with another's pursuit of a lawful occupation.

Statutory reference:

Wis. Stats. ' 947.01

' 8-1-14 LOITERING PROHIBITED.

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 the alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or herself or manifestly endeavors to conceal himself or herself or any object. Unless flight by the person or other circumstances makes it impracticable, a police 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 him or her to identify himself or herself and explain his or her presence and conduct. No person shall be convicted of an offense under this division if the police 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 police or peace officer at the time, would have dispelled the alarm.

' 8-1-15 LOUD AND UNNECESSARY NOISE PROHIBITED.

(A) It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others in the village.

(B) The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive.

(1) *Horns; signaling devices.* The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the village, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.

(2) *Radios; phonographs; similar devices.* The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with a volume louder than necessary for the convenient hearing of the person who is in the room, vehicle or chamber, in which the machine or device is operated, and who is a voluntary listener thereto. The operation of any set, instrument, phonograph, machine or device

between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(3) *Loudspeakers; amplifiers for advertising.* The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

(4) *Yelling, shouting and the like.* Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or other type of residence or of any persons in the vicinity.

(5) *Animals; birds.* The keeping of any animal or bird which by causing frequent or long continued unnecessary noise shall disturb the comfort or repose of any persons in the vicinity.

(6) *Steam whistles.* The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper village authorities.

(7) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) *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 10:00 p.m. on weekdays; provided, however, the Village Board shall have the authority, upon determining that the loss or inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.

(9) *Schools; courts; churches; hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street.

(10) *Yard Maintenance.* The creation of noise relating to yard maintenance between the hours of 10:00 p.m. and 7:00 a.m. Activities included, but not limited to include grass trimming/cutting, tree trimming/cutting, power raking/leaf blowing, edging and landscaping using power equipment.

(C) The provisions of this section shall not apply to:

(1) Any vehicle of the village while engaged in necessary public business;

(2) Excavations or repairs of streets or other public construction by or on behalf of the village, county, state at night when public welfare and convenience renders it impossible to perform the work during the day; or

(3) The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character.

(Am. Ord., passed - -2012)

‘ 8-1-16 OBEDIENCE TO OFFICERS.

No person shall, without reasonable excuse or justification, resist or in any way interfere with any officer of the village while the officer is doing any act in his or her official capacity and with lawful authority.

‘ 8-1-17 ASSISTING ESCAPE OF PRISONER.

No person shall intentionally aid any prisoner or person to escape from the lawful custody of a police officer or peace officer of the village.

‘ 8-1-18 PERSONATING POLICE OFFICERS.

No person shall personate a police officer or peace officer within the Village of Almond.

CHAPTER 2: OBSCENITY

Section

- 8-2-1 Obscene literature, materials and performances
- 8-2-2 Exposing minors to harmful materials
- 8-2-3 Commercial sexual gratification

8-2-1 OBSCENE LITERATURE, MATERIALS AND PERFORMANCES.

(A) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

KNOWINGLY. A person acts knowingly if he or she has general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of the character and content of any materials described herein which is reasonably susceptible of examination.

MATERIAL. Any book, magazine or other newspaper or other printed or written material or any picture, drawing, photograph, motion picture or other pictorial representation or any sculpture or other figure, or any recording, transcription or mechanical, chemical or electrical reproduction or any other articles, equipment or machines.

OBSCENE. Material is obscene if:

- (a) Its dominant theme taken as a whole appeals to a prurient interest in sex;
- (b) It is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matter; and
- (c) It lacks serious literary, artistic, political or moral value.

PERSON. Any individual, partnership, firm, association, corporation or other legal entity.

PERFORMANCE. Any preview, play, show, skit, film, dance or other exhibition performed before an audience.

PROMOTE. To cause, permit, procure, counsel or assist.

SERVICE TO PATRONS. The provision of services to paying guests in establishments providing food and beverages, including, but not limited to, hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waiter and waitressing and entertaining.

(B) *Prohibitions.* It shall be unlawful for any person knowingly:

- (1) To sell, loan for a monetary consideration, deliver or provide, any obscene writing, picture, record or other representation or embodiment of the obscene;
- (2) To present or direct or participate in an obscene play, dance or performance or knowingly to permit the same on any premises owned or operated by him or her or under his or her control;
- (3) To publish, exhibit, distribute, give away or otherwise make available any obscene material;
- (4) To possess any obscene material for purposes of sale or other commercial dissemination;
- (5) To sell, advertise or otherwise commercially disseminate material, whether or not obscene, by representing or suggesting that it is obscene; or
- (6) To provide service to patrons in such a manner as to expose to public view:
 - (a) His or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;
 - (b) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (c) Any portion of the female breast at or below the areola thereof.

Penalty, see ' 1-1-7

Statutory reference:

Wis. Stats. Ch. 944

' 8-2-2 EXPOSING MINORS TO HARMFUL MATERIALS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HARMFUL TO MINORS. That quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value.

Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.

KNOWINGLY. Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

(a) The character and content of any material described herein which is reasonably susceptible of examination by the defendant; and

(b) The age of the minor, provided however that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

KNOWLEDGE OF THE MINOR'S AGE.

(a) Knowledge or information that the person is a minor; or

(b) Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.

MINOR. Any person under the age of 18 years.

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

SADOMASOCHISTIC ABUSE. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

SEXUAL CONDUCT. Acts of sexual intercourse between humans, normal or perverted, actual or simulated, acts of masturbation, fellatio, cunnilingus, and acts of excretory function, lewd exhibition of the genitals especially in a stimulated condition and sexual relations between humans and animals.

SEXUAL EXCITEMENT. The condition of human male or female genitals when in a state of sexual stimulation or arousal.

(B) It shall be unlawful for any person knowingly to exhibit for a monetary consideration to a minor or knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, show or other presentation which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors, unless the minor is accompanied by his or her parent or legal guardian.

(C) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

(1) Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or

(2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in division (C)(1) above, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

(D) It shall be unlawful for any person knowingly to admit a minor whom he or she knows or has reason to believe is not his or her child or legal ward to any premises whereon there is exhibited nudity, sexual conduct or sadomasochistic abuse which is harmful to minors unless the minor is accompanied by his or her parent or legal guardian.

Penalty, see ' 1-1-7

Statutory reference:

Wis. Stats. ' 944.25

' 8-2-3 COMMERCIAL SEXUAL GRATIFICATION.

(A) No person or any legal entity shall offer, make available, permit or in any way participate in the touching of the genitals, pubic area, buttocks, anus or perineum of any person or of the breasts or vulva of a female when such touching can be reasonably construed as being for the purpose of sexual arousal or gratification under circumstances in which it is reasonably expected that money or other consideration will be received therefor.

(B) No person or any legal entity shall offer, make available, permit or in any way participate in the administration of any form of massage for money or other consideration when the genitals, pubic area, buttocks, anus, perineum, vulva or female breast of the administrator of the massage are not fully covered by opaque material.

Penalty, see ' 1-1-7

CHAPTER 3: OFFENSES INVOLVING ALCOHOLIC BEVERAGES

Section

- 8-3-1 Outside consumption
- 8-3-2 Restrictions on sales to minors
- 8-3-3 Possession of liquor on school grounds prohibited

' 8-3-1 OUTSIDE CONSUMPTION.

(A) No person shall drink, consume or possess in any container that has theretofore been opened so as to permit the drinking or consumption of the contents thereof, any beer or other fermented malt beverage or any other spirituous or intoxicating liquor while in or upon any of the public streets, walks, alleys, public parking lot or ways of the Village of Almond, unless the area where the beverage or liquor is consumed or possessed shall be at such time included within an area duly licensed by the village for the sale of such beverage or beverages by the drink, and then only within the licensed area. The exception being that at such times and places as may be specifically exempted temporarily from the provisions hereof, from time to time, by the Village Board.

(B) **CONTAINER** includes cans, bottles, cups, glasses and all other vessels which contains any alcoholic beverage. For purposes of this section, a **PUBLIC PLACE** shall be construed to mean any location within the village which, at the time the person is apprehended, is open to access by persons not requiring specific permission of the owner to be at such location including, without exclusion by reason of this enumeration, all parking lots serving commercial establishments.

(C) In no event shall a private yard or residence in a residentially zoned district be construed to be a public place.

Penalty, see ' 1-1-7

' 8-3-2 RESTRICTIONS ON SALES TO MINORS.

(A) No licensee of a Class B liquor license or his or her employees or agents or a keeper of the premises for which a Class B liquor license has been issued shall sell, vend, give away or in any other manner distribute to any person 20 years of age or under intoxicating liquors or fermented malt beverages in the Village of Almond, Portage County, Wisconsin.

(B) No licensee of a Class B liquor license or his or her employee or agents or a keeper of the premises for which a Class B liquor license has been issued shall directly or indirectly suffer or permit

any person of either sex 20 years of age or under, unaccompanied by his or her parent, guardian or spouse, of whom one shall be 21 years of age, who is not a resident, employee or a bona fide lodger or boarder on the premises of the licensed person, to enter or be on the licensed premises for any purpose, excepting the transaction of bona fide business other than amusement or the purchase, receiving or consumption of edibles or beverages. This section shall not apply to hotels, drug stores, grocery stores, bowling alleys, ski chalets, golf clubhouses, cars operated on any railroad, regularly established athletic fields or stadiums nor to premises operated under both a Class B license and a restaurant permit where the principal business conducted therein is that of a restaurant.

(C) Every retail Class B liquor licensee shall cause a book to be kept and the licensee or his or her employee, or both, shall require any person who has shown documentary proof of age, which substantiates his or her age to allow the legal purchase of intoxicating liquor, to sign the book if the age of the person is in question. The book shall show the date of the purchase, the identification used in making the purchase, the address of the purchaser and his or her signature.

(D) Whenever the holder of any Class B liquor license shall violate any of the provisions of divisions (A) and (B) above, the proceedings for the revocation or suspension of the license may be instituted in the manner, and under the procedure established by the Wisconsin Statutes, and the provisions therein relating to the granting of a new license shall likewise be applicable.

(E) (1) Any person violating divisions (A) and (B) of this section shall upon conviction thereof, forfeit a sum as per the village fee schedule, together with the costs of prosecution, and in default of payment of such fines and costs, by imprisonment in the County Jail of Portage County.

(2) Any person violating division (C) above shall upon conviction thereof, forfeit a sum as per the village fee schedule, together with the costs of prosecution, and in default of payment of the fines and costs, by imprisonment in the County Jail of Portage County.

(3) Any person under the age of 21 years who procures or attempts to procure alcohol beverages is subject to a forfeiture as per the village fee schedule, except that disposition in proceedings against a person who is under 21 years of age on the date of disposition.

(F) The establishment of the following facts by a person prosecuted for the violation of either division (A) or (B) above shall constitute prima facie evidence of innocence and a defense to any prosecution therefor:

(1) That the purchaser falsely represented in writing and supported with other documentary proof that he or she was of legal age to purchase intoxicating liquor;

(2) That the appearance of the purchaser was such that an ordinary and prudent person would believe him or her to be of legal age to purchase intoxicating liquor; or

(3) That the sale was made in good faith and in reliance upon the written representation and appearance of the purchaser in the belief that the purchaser was of legal age to purchase intoxicating liquor. Penalty, see ' 1-1-7

' 8-3-3 POSSESSION OF LIQUOR ON SCHOOL GROUNDS PROHIBITED.

(A) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOTOR VEHICLE. A motor vehicle owned, rented or consigned to a school.

SCHOOL. A public, parochial or private school which provides an educational program for 1 or more grades between grades 1 and 12 and which is commonly known as an elementary school, middle school, junior high school, senior high school or high school.

SCHOOL ADMINISTRATOR. The person designated by the governing body of a school as ultimately responsible for the ordinary operations of a school.

SCHOOL PREMISES. Premises owned, rented or under the control of a school.

(B) Except as provided by division (C) below, no person may possess or consume intoxicating liquor:

- (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) Intoxicating liquor 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 and ordinances.

(D) A person who violates this section is subject to a forfeiture of not more than \$200, except that disposition in proceedings against a person under 18 years of age.

CHAPTER 4: NUISANCES

Section

- 8-4-1 Public nuisances prohibited
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' 8-4-1 PUBLIC NUISANCES PROHIBITED.

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village of Almond.

Penalty, see ' 8-4-5

Statutory reference:

Wis. Stats. Ch. 823

' 8-4-2 DEFINITIONS.

(A) *Public nuisance.* A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (1) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (2) In any way render the public insecure in life or in the use of property;
- (3) Greatly offend the public morals or decency; or

(4) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(B) *Public nuisances affecting health.* The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but this enumeration shall not be construed to exclude other health nuisances coming within the definition of division (A) above:

Almond - Offenses and Nuisances

(1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

(2) Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

(3) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;

(4) All stagnant water in which mosquitoes, flies or other insects can multiply;

(5) Privy vaults and garbage cans which are not fly-tight;

(6) All noxious weeds and other rank growth of vegetation;

(7) All animals running at large;

(8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the village limits or within 1 mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the village;

(9) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances;

(10) Any use of property, substances or things within the Village of Almond emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the village;

(11) All abandoned wells not securely covered or secured from public use; and

(12) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the village.

(C) *Public nuisances offending morals and decency.* The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of division (A) above:

(1) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

(2) All gambling devices and slot machines;

(3) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the village;

(4) Any place or premises within the village where village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated; and

(5) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Wisconsin or ordinances of the village.

(D) *Public nuisances affecting peace and safety.* The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but this enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of division (A) above:

(1) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety;

(2) All buildings erected, repaired or altered within the fire limits of the Village of Almond in violation of the provisions of the ordinances of the village, relating to materials and manner of construction of buildings and structures within the village;

(3) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal;

(4) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;

(5) All limbs of trees which project over and less than 14 feet above the surface of a street or less than 8 feet above any other public sidewalk or public place;

(6) All use or display of fireworks except as provided by the laws of the State of Wisconsin and ordinances of the village;

(7) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

(8) All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface thereof;

(9) All loud, discordant and unnecessary noises or vibrations of any kind;

(10) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the village;

(11) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished;

(12) All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;

(13) All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside;

(14) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

(15) Repeated or continuous violations of the ordinances of the village or laws of the State of Wisconsin relating to the storage of flammable liquids; and

(16) All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided by law. Penalty, see ' 8-4-5

' 8-4-3 ABATEMENT OF PUBLIC NUISANCES.

(A) *Statutes.* The Village Board of the Village of Almond, pursuant to authority granted to local authorities, hereby incorporates the provisions of Wis. Stats. ' 66.0413 and Ch. 823 as the same apply to the abatement of public nuisance.

(B) *Inspection of premises.* Whenever complaint is made to the Village President that a public nuisance exists within the Village of Almond, he or she shall promptly notify the Health Officer or Building Inspector who shall forthwith inspect or cause to be inspected the premises complained of and shall make a written report of his findings to the Village President. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the Village Clerk.

(C) *Summary abatement.*

(1) *Notice to owner.*

(a) If the inspecting officer shall determine that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Village President may direct the Chief of Police to serve notice on the person causing, permitting or maintaining the nuisance or upon the owner or occupant of the premises where the nuisance is caused, permitted or maintained and to post a copy of the notice on the premises.

(b) The notice shall direct the person causing, permitting or maintaining the nuisance or the owner or occupant of the premises to abate or remove the nuisance within 24 hours and shall state that unless the nuisance is so abated, the village shall cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(2) *Abatement by village.* If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Health Officer, in case of health nuisances, and the Chief of Police, in other cases, shall cause the abatement or removal of the public nuisance.

(D) *Abatement by court action.* If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of the nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he or she shall file a written report of his or her findings with the Village President, who shall cause an action to abate the nuisance to be commenced in the name of the village in the Circuit Court of Portage County in accordance with the provisions of Wis. Stats. Ch. 823.

(E) *Other methods not excluded.* Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village of Almond or its officials in accordance with the laws of the State of Wisconsin.

8-4-4 COST OF ABATEMENT.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, the cost shall be assessed against the real estate as a special charge.

8-4-5 PENALTY.

Any person who shall violate the provisions of this chapter shall upon conviction thereof forfeit not less than \$10 nor more than \$300, together with costs, and not less than \$25 nor more than \$500, together with costs, for prosecution for the second offense within a year.

8-4-6 FORFEITURES AND PENALTIES.

Any person who shall violate any of the provisions of this chapter shall upon conviction thereof, be subject to the penalties in which case applicable as provided by the Wisconsin Statutes, in which case made and provided for, unless otherwise provided for by the provisions of this chapter.

8-4-7 BURNING.

(A) Permissible burning times for the village are:

- (1) Monday through Friday: 5:00 p.m. until 10:00 p.m.;
- (2) Saturday: 10:00 a.m. until 10:00 p.m.; and
- (3) Sunday: no burning allowed.

(B) Burning sites should be located as far as possible from other combustible material such as homes, outbuildings, trees, fences and wood piles. All burning sites shall be constantly attended by a responsible person whenever smoke or flames are present.

(C) Material to be burned shall be completely dry yard waste. Material shall not be ignited with any flammable or combustible liquid. The burning of household trash, garbage, rubber, plastics, leather or petroleum based materials is prohibited.

(D) Piles larger than 4 feet by 4 feet by 2 feet are prohibited. The fire load shall be totally controllable with implements such as water, rakes, shovels, forks and the like and personnel immediately on hand.

(E) Burning during strong winds is prohibited.

(F) No burning is allowed on pavement or streets.

(G) Persons utilizing and maintaining outdoor fires shall be responsible for any liability resulting from damage caused by the fire.

(H) Materials lawful for burning barrels include: paper, corrugated cardboard and dry untreated wood/lumber.

(I) The Village Fire Chief, or his or her appointed representative, may order and/or cause to be extinguished any fire, that may, in his or her opinion, be threatening the safety of persons or property in the village.

