

**CHAPTER 34  
PUBLIC PEACE AND ORDER**

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**34.01 DISORDERLY CONDUCT PROHIBITED.** No person shall do any of the following:

(1) In a public or private place, engage 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;

(2) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call, whether or not a conversation ensues, or;

(3) With the intent to frighten, intimidate, threaten, abuse or harass another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or threatens to inflict injury or physical harm to any person or the property of any person.

(4) Engages in any conduct described in sub. (1) – (3) directed towards an election official as defined by Wis. Stat. s. 5.02(4e).

[History: (1) rep., OA 40, 2000-01, pub. 05/15/01; (2) and (3) rep., newly created (1)-(4), Sub 1 to 2022 OA-20, pub. 08/29/22.]

**State Law Reference:** Section 59.07(64); Section 947.01, Wis. Stats.; *Stoughton v. Powers*, 264 Wis. 582 (1953); *State v. Maker*, 48 Wis. 2d 612 (1970), cert. den. 401 U.S. 1013.

**34.015 INTERFERENCE WITH BREASTFEEDING PROHIBITED.** No person shall interfere with a mother breastfeeding her child or expressing breast milk within any public accommodation where the mother would otherwise be authorized to be.

[History: cr., OA 27, 2006-07, pub. 01/18/07.]

**34.02 TRESPASSING PROHIBITED.**

(1) *Purpose and authority.* The purpose of this section is to secure to the residents of Dane County their rights to enjoyment and use of land and property by providing an efficient and orderly method of enforcement of such rights. This section is enacted under the authority of s. 59.54(22) of the Wisconsin Statutes, including acts amendatory thereto.

(2) No person shall do any of the following within Dane County:

(a) Enter upon any enclosed or cultivated land of another with intent to catch or kill any birds, animals or fish on such land or gather any products of the soil without the express or implied consent of the owner or occupant to engage in any of such activities.

(b) To enter or remain on any land of another after having been notified by the owner or occupant not to enter or remain on such premises.

(c) To hunt, shoot, fish or gather any product of the soil on the premises of another, or enter said premises with intent to do any of the

foregoing after having been notified by the owner or occupant not to do so.

(d) To enter upon any enclosed or cultivated land of another with a vehicle of any kind without the expressed or implied consent of the owner or occupant.

(e) To erect upon the land of another any sign which is the same as or similar to the type of sign described in sub. (3) of this section.

(3) For lands to be posted against entry by another under this ordinance, a sign at least eleven inches square but in any event no larger than 324 square inches must be placed in at least two conspicuous places for every forty acres sought to be protected. The sign must carry an appropriate notice and the name of the person giving the notice, followed by the word "owner" if the person giving the notice is the holder of the legal title to the land, and by the word "occupant" if the person giving the notice is not the holder of legal title but is a lawful occupant of the land. Proof that appropriate signs as herein provided were erected or in existence upon the premises to be protected within six months prior to the event complained of shall be *prima facie* proof that the premises to be protected were posted as herein provided. The failure of any owner or occupant to post his or her land as herein provided shall not be deemed to constitute consent of such owner or occupant to any uninvited entry by another.

(4) A person has received notice from the owner or occupant within the meaning of this section if he or she has been notified personally, either orally or in writing, or if the land is posted as provided in sub. (3) above.

(5) This section shall in no way be deemed to supplant or otherwise invalidate any provision of state statutes relating to the subject matter hereof. Any person entrusted with the enforcement of this section may, in the exercise of his or her discretion, proceed under applicable state statutes.

(6) Enforcement of this section shall be by the Dane County Sheriff Department.

[History: (6) am., OA 14, 1986-87, adopted 08/21/86; (3) am., OA 25, 1998-99, pub. 04/21/99; (1) am., Sub. 1 to OA 29, 1998-99, pub. 06/17/99.]

State Law Reference: Section 943.13, Wis. Stats.

**34.03 ABANDONMENT OF VEHICLES PROHIBITED.** (1) *Purpose and authority.* The purpose of this section is to meet the particular problems arising out of the abandonment of vehicles on public and private property such as, but not limited to, interference with the use and maintenance of public and private property,

hindrance of snow removal on public property and aesthetic abuses that are caused by the abandonment of vehicles on public and private property. This section is enacted under the authority of section 342.40, Wis. Stats.

(2) No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in Dane County, for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in Dane County or upon private or public property without the permission of the property owner, the agent of the property owner, or the lessee, or any person in lawful possession thereof, for more than 48 hours, the vehicle shall be deemed abandoned and shall constitute a public nuisance.

(3) Whenever a property owner or the authorized agent of the property owner, or other person so charged with the lawful jurisdiction thereof, notifies any law enforcement officer that a vehicle has been abandoned on his or her property or on the public streets adjacent thereto, without permission for more than 48 hours, the law enforcement officer shall presume that the vehicle is abandoned.

(4) Any vehicle left in violation of this section shall be removed and impounded until lawfully claimed or disposed of under subs. (5) through (9) hereof.

(5) *Removal of abandoned vehicles.* (a) Any municipal, county or state law enforcement officer who discovers any motor vehicle, trailer, semitrailer or mobile home which has been abandoned on any public highway, or private or public property, shall notify the Dane County Sheriff Department.

(b) Upon receiving such information and verifying that the vehicle has been abandoned, the Dane County Sheriff Department shall cause the vehicle to be removed to a State of Wisconsin licensed vehicle salvage yard or to an authorized and suitable place of impoundment.

(c) Upon removal of the abandoned vehicle, the Dane County Sheriff Department shall give notice of the location of the stored abandoned vehicle to the law enforcement office in whose jurisdiction the abandoned vehicle was discovered.

(6) *Storage and reclaimer.*

(a) Any abandoned vehicle which is determined by the Dane County Sheriff

Department to be abandoned shall be retained in storage for a period of 15 days after the certified mail notice, as hereinafter provided, has been sent to the titled owner and secured party of record.

**(b)** Any such vehicle may be lawfully reclaimed and released upon the payment of all accrued charges, including all reasonable towing, storage and notice charges and upon presentation of the vehicle title or other satisfactory evidence to the Dane County Sheriff Department to prove an ownership or secure party interest in said vehicle, unless the vehicle is required for evidence.

**(c)** Any vehicle which is required for evidence shall be held until no longer needed. When it is no longer needed as evidence, the title owner and any secured parties of record shall be notified and may reclaim the vehicle within 15 days of such notice in accordance with sub. (6)(b) above. Such owner or secured party shall not be liable for storage charges arising out of such retention for evidentiary purposes.

**(7) Notice to owner and secured party.** **(a)** A notice, as referred to herein, shall be sent by certified mail to the titled owner of the abandoned vehicle, if any, and the secured party of record with the appropriate motor vehicle division, if any.

**(b)** The certified mail notice shall state the conditions and terms of reclamation, and that:

1. The vehicle has been abandoned and impounded by Dane County.
2. If the vehicle is not wanted for evidence or other reason, the vehicle may be claimed upon the payment of all accrued charges, within 15 days of the date of notice.
3. If the vehicle is not reclaimed within 15 days of mailing of this notice, the vehicle may be sold to a salvage dealer or at a public auction.

**(8) Disposal of abandoned vehicles.** **(a)** Any abandoned vehicle impounded by Dane County which has not been reclaimed within 15 days after the certified mail notice has been sent, shall either be:

1. Sold by direct sale to a licensed salvage dealer, if the reasonable value of the vehicle is less than \$100, or,
2. Sold by public auction sale or public sale calling for receipt of sealed bids if the reasonable value of the vehicle is \$100 or more.

**(b)** The Dane County Sheriff Department must notify the place where the impounded vehicle is located within 5 days after the

reclamation time expires as to whether the vehicle will be disposed of by direct sale to a licensed salvage dealer, or by public sale.

**(c)** Whenever a vehicle will be disposed of by public sale, a Class 1 Notice, including the description of the vehicle, the name(s) and address(es) of the titled owner(s) and secured party of record, if known, and the time of sale, shall be published before the sale.

**(9) Report of sale or disposal.** **(a)** Within 5 days after the direct sale or disposal of a vehicle as provided in this section, the Dane County Sheriff Department shall advise the State of Wisconsin, Department of Transportation, Division of Motor Vehicles, or other appropriate motor vehicle division, of such sale or disposal.

**(b)** A copy of the form shall be given to the purchaser of the vehicle.

**(10) Owner responsible for impoundment and disposal costs.** **(a)** The owner of any abandoned vehicle, except a stolen vehicle, is responsible for all costs of towing, storage and disposing of the vehicle except as provided in sub. (6)(c) above.

**(b)** Costs not recovered from the sale of the vehicle may be recovered in a civil action by the county against the owner.

[History: (1) am., Sub. 1 to OA 29, 1998-99, pub. 06/17/99.]

**State Law Reference:** Section 342.40, Wis. Stats.

**34.035 ABANDONED PERSONAL PROPERTY.** **(1) Authority.** This section is enacted pursuant to the authority of s. 66.28, Wis. Stats.

**(2) Disposal of personal property.** Personal property, other than cash, which has been abandoned or which remains unclaimed for a period of 90 days after the taking of possession of the property by a county officer shall be treated and disposed of as surplus property under s. 25.13. If the disposal is in the form of a sale, all receipts from the sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the county treasury. The officer shall attempt to return to the rightful owner such items which have a substantial value, if the owner or likely owner can reasonably be determined, at no later than 75 days in the county's possession.

**(3) Disposal of cash.** **(a)** Personal property consisting of cash which has been abandoned or which remains unclaimed for a period of 90 days after the taking of possession of the property by a county officer shall be turned over to the county treasurer and credited to the

miscellaneous general revenues account general fund. The officer shall attempt to return to the rightful owner such items which have a substantial value, if the owner or likely owner can reasonably be determined, at no later than 75 days in the county's possession.

(b) Notwithstanding sub. (a), abandoned or unclaimed personal property consisting of cash which has been seized as part of a narcotics arrest or investigation shall be placed in a sheriff's office miscellaneous revenue account for use solely for law enforcement activities by the sheriff's office or, at the discretion of the sheriff, by the county-wide interagency narcotics task force.

(4) *Disposal of abandoned or unclaimed flammable, explosive or incendiary substances, materials or devices.* Any county officer may safely dispose of abandoned or unclaimed flammable, explosive or incendiary substances, materials or devices posing a danger to life or property in their storage, transportation or use immediately after taking possession of the substances, materials or devices without a public auction. If the substance, material or device appears to be or is reported stolen an attempt shall be made to return the substance, material or device to the rightful owner. The officer shall attempt to return to the rightful owner such substances, materials or devices which have a commercial value in the normal business usage and do not pose an immediate threat to life or property.

(5) *Records to be kept.* If abandoned or unclaimed personal property is not disposed of in a sale open to the public, the department of administration shall maintain an inventory of such property; a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than 2 years from the date of disposal of the property.

(6) *Abandoned, unclaimed or seized dangerous weapons or ammunition.* Abandoned, unclaimed or seized dangerous weapons or ammunition may be disposed of only under s. 968.20, Wis. Stats.

[History: cr., Sub. 1 to OA 15, 1998-99, pub. 09/28/98.]

**34.037 DISPOSAL OF ABANDONED INMATE PROPERTY.** (1) This ordinance is enacted pursuant to the authority of s. 66.0139(2) of the Wisconsin Statutes.

(2) Inmate property left at the jail more than thirty days following the inmate's release may be disposed of as set forth in this ordinance. Before any inmate property may be disposed of, reasonable efforts must be made to release the property to an authorized person. Reasonable efforts may include letters or phone calls. All such attempts shall be documented in the Jail Incident Log under the inmate's name number.

(3) All property items disposed of must be accounted for and a record of all items disposed of must be maintained. Abandoned inmate property shall be sorted and disposed of by type.

(a) All clothing items to be disposed of shall be bagged and the bag sealed. A minimum number of clothing items may be saved by jail officials for inmates who may be indigent or who have inappropriate or no clothing to wear upon release. Sealed bags of clothing may then be donated to a charitable organization. An organization accepting bags of clothing shall issue a receipt to the Sheriff's Office indicating the number of bags taken.

(b) New and unused hygiene items shall be saved for distribution to indigent inmates. Any used hygiene items shall be disposed of.

(c) Money found in the property boxes shall be noted in the inventory. The money shall be recorded in the ledger book and sent to Accounts Payable. The Accounts Payable clerk shall sign the ledger book indicating the money was received.

(d) Stamps, envelopes, bus tokens, phone cards or other items having a minimal measurable monetary value shall be saved for use by indigent inmates. A log of these items shall be maintained.

(e) Jewelry, watches and other items valued at \$10.00 and over shall be sent to the Lab for sale at the Sheriff's Auction. Items under \$10.00 in value shall be sent to a charitable organization. A log shall be kept of items sent to the Lab and charitable organizations.

(f) Usable medical care such as wheelchairs or crutches left at the jail can be donated through the medical office for use by indigent patients.

[History: 34.037 cr., OA 30, 2006-07, pub. 02/27/07.]

**34.04 PROHIBITION OF EXCESSIVE NOISE DISTURBING THE PUBLIC PEACE.** (1) Excessive noise defined. *Excessive noise*, as used in this section, shall mean any sound or level of sound of sufficient loudness that it tends

unreasonably to disturb the peace, comfort, quiet or repose of persons in the vicinity of the noise including, but not limited to, any such noise produced in the operation or use of any radio, phonograph, tape or disc player, television or other mechanical or electrical device, machine or motor vehicle.

(2) No person shall cause or participate in the production of any excessive noise, and no owner, user, occupier or other person having charge of any property within Dane County may cause, suffer, permit or participate in the production of excessive noise as defined in sub. (1) above.

(3) This section shall apply in all areas of Dane County except in those municipalities which have an ordinance on the same subject matter.

(4) This ordinance shall not be deemed to prohibit any noise or sound which is:

(a) necessary for the preservation of property or of the health, safety, life or limb of any person; or

(b) otherwise required or permitted by law; or

(c) produced as a necessary result of the reasonable operation of any activity otherwise regulated by law; or

(d) produced as a result of any agricultural activity.

### **34.05 POSSESSION OF FIREWORKS REGULATED.**

(1) No person shall bring upon or have in his or her possession any fireworks containing any explosive or flammable compound or any other explosive upon any lands owned or leased by the County of Dane, except as authorized by a valid permit issued pursuant to section 167.10(2)(a) of the Wisconsin Statutes. This section shall not be construed to conflict with section 167.10 of the statutes.

(2) *Statutory offenses adopted.* (a) This subsection is intended to provide a prosecutorial alternative for acts which may otherwise be violations of state law.

(b) The provisions of sec. 167.10, Wis. Stats., and any subsequent amendments thereto are adopted. Any act required to be performed under the statute is required by this ordinance, and any act prohibited by the statute is prohibited by this ordinance.

**State Law Reference:** Section 167.10, Wis. Stats., 60 Op. A.G. 238 (1971).

**History:** 34.05 am., OA 27, 2007-08, pub. 10/26/07.]

### **34.06 SAFETY AT SPORTING EVENTS.**

(1) As used in this section, the following words and phrases have the meanings indicated:

(a) *Alcohol beverages* means fermented malt beverages and intoxicating liquor.

(b) *Facility* means building or stadium in Dane County.

(c) *Fermented malt beverages* has the meaning designated in s. 125.02(6), Wis. Stats.

(d) *Intoxicating liquor* has the meaning designated in s. 125.02(8), Wis. Stats.

(e) *Passing* includes pushing, pulling, throwing and moving.

(f) *Sports facility* means a facility where sporting events are held, regardless of whether that is the exclusive use of the facility.

(2) A spectator at a sporting event at a sports facility shall not participate in the process of passing another person above the floor or ground from one location to another.

(3) A spectator at a sporting event at a sports facility shall not participate in the process of passing bleachers, seats or other objects in a manner which threatens the safety of other persons.

(4) A spectator shall not bring alcohol beverages into a sports facility where there is a sporting event at the sports facility.

(5) A spectator shall not consume alcohol beverages at a sporting event at a sports facility if the alcohol beverages were brought to the facility as specified in subsection (4).

(6) Subsections (4) and (5) do not apply to any vendor or other person who brings alcohol beverages into a sports facility with the authorization of the person in charge of the facility.

**History:** 34.06 cr., OA 28, 1985-86, eff. 06/01/86.]

### **34.07 SMOKING PROHIBITED IN CERTAIN AREAS.**

(1) *Purpose and intent.* (a) The Dane County Board of Supervisors hereby finds that:

1. It is recognized that smoking of cigarettes and tobacco products is hazardous to an individual's health and may affect the health of non-smokers when they are involuntarily in the presence of smoking.

2. Numerous scientific studies have found that tobacco smoke is a major contributor to indoor air pollution.

3. Reliable scientific findings, including those by the Surgeon General of the United States, have shown that breathing sidestream or secondhand smoke is a significant health

hazard to non-smokers; particularly to children, elderly people, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

**4.** Health hazards induced by breathing sidestream or secondhand smoke include lung cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, bronchoconstriction and bronchospasm.

**5.** Reliable scientific studies assessed by the California Environmental Protection Agency have found that sidestream and secondhand tobacco smoke is a leading cause of premature death and disability among non-smokers.

**6.** Air pollution caused by smoking is an offensive annoyance and irritant. Smoking results in serious and significant physical discomfort to non-smokers.

**7.** Electronic delivery devices are currently unregulated and have been proven to emit nicotine, ultra-fine particles, volatile organic compounds and other toxins. Inhalation of nicotine is proven to be dangerous to everyone, especially children and pregnant women. Exposure to ultra-fine particles may exacerbate respiratory illnesses, such as asthma and may constrict arteries which could trigger a heart attack. The volatile organic compounds, such as formaldehyde and benzene, found in electronic smoking device aerosols, as well as conventional cigarette smoke, are proven carcinogens.

**(b)** This ordinance is adopted for the purpose of protecting the public health, safety, comfort and general welfare of the people of Dane County, especially recognizing the rights of non-smokers, who constitute a majority of the population; educating citizens affected by this ordinance; and assisting owners, operators and managers in maintaining compliance.

**(2) Authority.** This ordinance is enacted under the authority of sections 59.03, 59.51 and 101.123 of the Wisconsin Statutes.

**(3) Definitions.** As used in this section, the following words and phrases shall have the meanings indicated:

**(a) Bed and breakfast establishment** has the meaning set forth in sec. 254.61(3), Wis. Stats.

**(b) Childcare facility** means any state licensed or county certified child care facility including, but not limited to, licensed family day care or licensed group day care centers, licensed day

camps, certified school-age programs and Head Start programs.

**(c) Cigarette** means any roll of tobacco wrapped in paper or any substance other than chewing tobacco or tobacco products.

**(d) County buildings** means all County-owned and operated buildings and those portions of buildings leased and operated by the County.

**(e) Common areas of buildings** means all areas not part of a tenant's leased premises including, but not limited to, lobbies, community rooms, hallways, laundry rooms, stairwells, elevators, enclosed parking facilities, pool areas and restrooms contiguous thereto.

**(f) Common areas of malls** means those areas within a mall customarily accessible to patrons.

**(g) Educational facility** means any building used principally for educational purposes in which a school is located or a course of instruction or training program is offered that has been approved or licensed by a state agency or board.

**(gm) Electronic delivery device** means any product containing or delivering nicotine or any other substance intended for human consumption that may be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. This includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

**(h) Employee** means any person who is employed by any employer for direct or indirect monetary wages or profit including those full-time, part-time, temporary or contracted for from a third party. Employee also means any person who serves as a volunteer for a business or nonprofit entity.

**(i) Employer** means any person, partnership, limited liability company, corporation or other entity, including a public or non-profit entity who employs the services of one (1) or more individual persons.

**(j) Enclosed area** means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from floor to ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, 'other landscaping' or similar structures.

**(k) Entrance** means a doorway and adjacent area which gives direct access to a building from a contiguous street, plaza, sidewalk or parking lot.

**(L) Food** means a raw, cooked or processed edible substance or ingredient used or intended for use or for sale in whole or in part for human consumption. It does not include ice, beverages or chewing gum.

**(m) Health care facility** has the meaning set forth in sec. 155.01(6), Wis. Stats.

**(n) Hotel and motel** has the meaning set forth in sec. 254.61(3), Wis. Stats.

**(o) Mall** means an enclosed, indoor area containing common areas and discrete businesses primarily devoted to the retail sale of goods and services.

**(p) Medical services** has the meaning set forth in sec. 647.01(6), Wis. Stats.

**(q) Non-smoking** means smoking is prohibited.

**(r) Person in charge** means the person who ultimately controls, governs or directs the activities aboard a public conveyance or within or at a place where smoking is regulated under this section, regardless of the person's status as owner or lessee.

**(s) Place of employment** means an enclosed area controlled by the employer, which employees normally frequent during the course of employment including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not considered a place of employment within the meaning of this ordinance unless used as a childcare facility.

**(t) Private residence** means premises owned, rented or leased for temporary or permanent habitation.

**(u) Public place** means any enclosed area to which the public is invited or in which the public is permitted. A private residence is not a public place.

**(v) Restaurant** means an establishment defined in sec. 254.61(5), Wis. Stats., in which the sale of alcohol beverages accounts for fifty percent (50%) or less of the establishment's gross receipts of the most recent alcohol licensing year, but does not mean churches, religious, fraternal, youth or patriotic organizations, service clubs and civic organizations which prepare and serve or sell meals to

members and guests only. This includes restaurants within a mall and adjacent seating.

**(vm) Retail electronic delivery device store** means a retail establishment that does not have a "Class B" or "Class A" intoxicating liquor license or a "Class B" or "Class A" fermented malt beverages license and that generates seventy-five (75%) or more of its gross annual income from the retail sale of electronic delivery devices and accessories.

**(w) Room** means a space within a building completely enclosed with walls, partitions, floor and ceiling, except for openings for light, ventilation, ingress and egress.

**(x) Smoke free** means absence from the ambient air of the smoke by-product from the burning, inhaling, exhaling, using or carrying of an electronic delivery device, lighted cigarette, cigar, pipe, weed, plant or other combustible substance, in any manner in any form.

**(y) Smoking** means to smoke or carry a lighted pipe, cigar, cigarette or tobacco-related product in any form. Smoking also includes the use of an electronic delivery device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device.

**(z) Sports arena** means sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and indoor ice rinks and bowling centers.

**(aa) Tavern** means any establishment with a full service bar in which fermented malt beverages or intoxicating liquors are sold for consumption upon said premises and whose sale of alcohol beverages accounts for more than fifty percent (50%) of the establishment's gross receipts of the most recent licensing year.

**(bb) Tobacco product** means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking in a pipe or otherwise smoking; but tobacco product does not include cigarettes or chewing tobacco.

**(cc) Tobacco bar** means a tavern, which generates fifteen percent (15%) or more of its total annual gross income from the on-site sale of tobacco products, not including any sales from vending machines.

**(4) Prohibition of smoking in public places.** Except as otherwise provided, it shall be unlawful for any person to smoke or use tobacco products in public places including, but not limited to, the following:

- (a)** Elevators and enclosed stairwells of County parking ramps.
- (b)** Public forms of transportation including, but not limited to, motor buses, taxicabs or other public passenger vehicles.
- (c)** Theatres, libraries, museums, auditoriums and convention halls.
- (d)** Childcare facilities. Incorporated herein by reference are the following Wisconsin statutory and administrative code sections and any amendments or renumbering thereof: Sec. 101.123(1)(ad) and (2)(bm), Wis. Stats.; Secs. HFS 45.02(4), 45.06(8)(g), 46.03(13), 46.06(2)(h) and 46.08(2)(c), Wis. Admin. Code.
- (e)** Retail stores.
- (f)** Health care facilities.
- (g)** Waiting rooms, hallways and rooms of health care laboratories.
- (h)** Waiting rooms, hallways and rooms in offices of any physician, dentist, psychologist, chiropractor, optometrist or optician, or other medical services provider.
- (i)** Meeting and conference rooms in which people gather for educational, business, professional, union, governmental, recreational, political or social purposes.
- (j)** Polling places.
- (k)** Service lobbies, waiting areas and the common areas open to the public of financial institutions, business and professional offices and multi-unit commercial facilities.
- (L)** Self-service laundry facilities.
- (m)** Enclosed, indoor areas of restaurants.
- (n)** Common areas of malls.
- (o)** Public bus and transfer point shelters.
- (p)** Common areas of buildings which contain three or more rental units. Written rental agreements shall include reference to this subsection. Subsection (9)(b) shall not apply to this subsection.
- (q)** County buildings.
- (r)** County-owned or leased motor vehicles.
- (s)** Sports arenas.
- (t)** Taverns.
- (u)** Common areas in bed and breakfast establishments, hotels and motels, and at least 75% of rooms that are rented to guests.
- (v)** Educational facilities.

**(5) Prohibition of smoking in outdoor areas.** It shall be unlawful for any person to smoke or use tobacco products in the following outdoor areas:

- (a)** Within a distance of 15 feet outside entrances, operable windows and ventilation systems of enclosed areas where smoking is prohibited, so as to insure that tobacco smoke does not enter those areas.
  - 1.** Every building where smoking is prohibited shall have at least one entrance which is smoke-free.
- (b)** County parks and beaches as posted and so designated by the Park Commission.
- (c)** Anywhere on the grounds of the Badger Prairie Health Care Center. This facility and all of its grounds are designated entirely "Smoke Free."
- (6) Prohibition of smoking in places of employment.** It shall be unlawful for any person to smoke in all places of employment.
- (7) Smoking paraphernalia.** Ashtrays, cigarette vending machines and other smoking paraphernalia shall not be located in areas where smoking is prohibited by this ordinance.
- (8) Exceptions.** The following areas shall not be subject to the restrictions of this section:
  - (a)** Bed and breakfast, hotel and motel rooms that are rented to guests and are designated as smoking rooms, provided that not more than twenty-five percent (25%) of rooms may be so designated.
  - (b)** Private residences, except when used as a childcare or health care facility.
  - (c)** Tobacco bars, subject to all of the following:
    - 1.** Smoking of tobacco products is permitted.
    - 2.** Smoking of cigarettes and cigars is not permitted.
    - 3.** Fifteen percent (15%) or more of the tobacco bar's total gross income from the previous fiscal year was from the on-site sale of tobacco products, not including any sales from vending machines.
    - 4.** To qualify for this exemption the owner must file written proof subscribed and sworn to by a certified public accountant certifying the tobacco bar's total gross income and the percentage of tobacco product sales from the tobacco bar. The director of Public Health may request further information, including an audit of the tobacco bar's records, if there is reason to believe the financial data may not be accurate.



5. This exemption is only in effect from the date of initial application until the following June 30<sup>th</sup>, and then from July 1<sup>st</sup> to June 30<sup>th</sup> of each year thereafter, upon application. An application for this exemption must be made annually by April 15<sup>th</sup> of the application year.

6. A tobacco bar that has not previously qualified under this subdivision, may qualify for an exemption if it provides written proof subscribed and sworn to by a certified public accountant certifying that during the previous six (6) months, fifteen percent (15%) or more of the tobacco bar's total gross income was from the on-site sale of tobacco products, not including any sales from vending machines. To qualify under this paragraph, the required certification must be filed no later than ninety (90) days after the above-mentioned six (6) months. This exemption will be in effect through the next full licensing year. After that point in time, the tobacco bar must qualify on a yearly basis for the exemption.

7. Tobacco bars shall display signs, in accordance with the standards in sub. (9), that state that pipes may be smoked in the tobacco bar, that cigarettes may not be smoked in the tobacco bar, and warning of the dangers of secondhand smoke, in language and form as approved by the director of Public Health.

(d) Retail electronic delivery device stores subject to the following:

1. The store may provide electronic delivery devices and accessories for the purposes of sampling;
2. The store must have an entrance opening directly to the outside;
3. Smoking of tobacco products is prohibited; and
4. Service of food is not permitted.

(9) *Signage.* (a) "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted in every public place and place of employment where smoking is prohibited by this section, said signage being posted by the owner, operator, manager or other person in control of the place.

(b) Restaurants and taverns shall post, in a conspicuous place at each entrance normally used by the public, a sign not smaller than eleven inches by eight and one-half inches (11" x 8½") stating that smoking is prohibited. The

signage lettering shall be in bold and the lettering shall be a minimum of two (2) inches in height. Each sign shall contain the telephone number for the City-County Health Department and the non-emergency number for the Dane County Sheriff's Office.

(c) It shall be unlawful for any person to remove, deface or destroy any sign required by this section.

(10) *Enforcement.* (a) The Director of Public Health or his or her designee and the Sheriff or his or her designee shall have the authority to enter upon the premises named in this section to ascertain compliance with this ordinance. Each day that a violation exists shall constitute a separate offense. Enforcement may be by citation, as permitted by s. 2.02(10), or through referral to the corporation counsel's office for prosecution for injunctive relief and daily forfeitures.

(b) The proprietor, employer or other person in charge of premises regulated hereunder, upon either observing or being advised of a violation, shall make reasonable efforts to prevent smoking in prohibited areas by:

1. Approaching smokers who fail to voluntarily comply with this section and requesting that they extinguish their cigarette or tobacco product and refrain from smoking, or
2. Refusing service to anyone smoking in a prohibited area, or
3. Contacting local law enforcement if the person refuses to comply if actions in 1. and 2. above are unsuccessful.

(11) *Retaliation prohibited.* No person shall discharge, refuse to hire, refuse to serve, or in any manner retaliate against any employee, applicant for employment, customer, service user, business patron or any other person who exercises any rights afforded by this section.

(12) *Penalties.* (a) A person who smokes in an area where smoking is prohibited by the provisions of this section shall be subject to a forfeiture of not more than one hundred dollars (\$100).

(b) A person who owns, manages, operates or otherwise controls a public place or place of employment and who fails to comply with the provisions of this section shall be subject to a forfeiture as follows:

1. not exceeding one hundred dollars (\$100) for a first violation;

2. not exceeding two hundred dollars (\$200) for a second violation within one (1) year; and

3. not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

**(13) Severability.** Should any subsection, clause or provision of this section be declared by the courts to be invalid, the same shall not affect the validity of the section as a whole or to any part thereof, other than the part so declared to be invalid.

**[History:** cr., Sub. 3 to OA 28, 1990-91, pub. 03/11/91, eff. 06/01/91; (3)(d) and (3)(f) rep., OA 8, 1993-94, pub. 01/07/94; (3)(c) rep., OA 38, 1997-98, pub. 06/03/98; (1) am., Sub. 1 to OA 29, 1998-99, pub. 06/17/99; (3)(b) rep., OA 9, 2005-06, pub. 09/12/05; (3)(a) am. and (e) renum. as (b), OA 24, 2005-06, pub. 02/14/06; 34.07 rep. & recr., Sub. 2 to OA 11, 2008-09, pub. 10/10/08, eff. 08/15/09; (3)(cc) and (8)(c) cr., Sub. 1 to OA 19, 2009-10, pub. 02/01/10; (1)(a)7, (3)(gm), (3)(vm), and (8)(d) cr., (3)(x) and (y) am., 2015 OA-4, pub. 10/13/15.]

**34.08 CURFEW FOR MINORS. (1) Purpose and authority.** The purpose of this section is to create a uniform curfew for minors throughout Dane County. This section is enacted under the authority of s. 59.54(6) of the Wisconsin Statutes.

**(2) Minors not allowed on streets after certain hours. (a)** No person under the age of fifteen (15) shall be on the streets, alleys or other public areas of Dane County between the hours of 10:00 p.m. and 5:00 a.m. Sunday through Thursday and between the hours of 11:00 p.m. and 5:00 a.m. Friday and Saturday, unless accompanied by a parent, legal guardian, or an adult with permission of a parent or legal guardian.

**(b)** No person older than fourteen (14) and under eighteen (18) years of age shall be on the streets, alleys or other public areas of Dane County between the hours of 11:00 p.m. and 5:00 a.m. Sunday through Thursday and between the hours of 12:00 a.m. (midnight) and 5:00 a.m. Friday and Saturday, unless accompanied by a parent, legal guardian or an adult with permission of a parent or legal guardian.

**(c)** The provisions of subsections (a) and (b) shall not apply if:

1. The minor is going to or from an activity approved by the minor's parent or legal guardian, or

2. The minor is going to or from their place of employment.

**[History:** 34.08 cr., Sub. 1 to OA 29, 2001-02, pub. 04/11/02, eff. 04/12/02; (2) am., OA 8, 2002-03, pub. 07/03/02, eff. 07/04/02.]

### **34.09 FIREARMS AND WEAPONS IN COUNTY BUILDINGS PROHIBITED.**

**(1)** It shall be unlawful for any person to carry a firearm or weapon, as defined by Wis. Stat. § 175.60(1)(j), into any buildings owned, leased or controlled by the County except for bathrooms not completely enclosed in buildings, or any of its agencies.

**(2)** The County shall post appropriate signage on each building or portion of a building now or hereafter owned, leased, operated, occupied, managed or controlled by the County except for bathrooms not completely enclosed in buildings, indicating that the carrying of firearms or weapons is prohibited in County buildings. Signs prohibiting the carrying of firearms and weapons shall be posted so as to be visible prior to entering the building.

**(3)** This ordinance shall not apply to law enforcement officers and members of the Armed Forces of the United States or the Wisconsin National Guard when in the discharge of their official duties.

**[History:** 34.09 cr., Sub. 1 to OA 30, 2011-12, pub. 01/30/12.]

### **34.10 REGULATING UNIFORMS OF PRIVATE POLICE, SECURITY GUARDS, AND OTHER SIMILARLY UNIFORMED PERSONS.**

**(1)** The purpose of this ordinance is to regulate and control the uniforms and paraphernalia worn by private police, security guards, and other quasi-police personnel under private employment so as to reduce or eliminate the possibility that the public would reasonably construe these private employees to be sworn Dane County Sheriff's deputies. Such purpose is deemed to be for the benefit of the health, safety, and welfare of the citizens of Dane County.

**(2)** No person, firm, or corporation conducting business in Dane County shall wear or cause its employees or agents to wear the official uniform of a Dane County Sheriff's deputy or any distinctive part of such uniform, or a uniform, any part of which is similar to a distinctive part of such uniform, which would lead a reasonably prudent person to conclude that such person so garbed is a sworn Dane County Sheriff's deputy.

**(3)** This ordinance is not applicable to the employees or agents of any official governmental body in the regular course of their duties or to theatrical productions.

**[History:** 34.10 cr., Sub. 2 to 2016 OA-13, pub. 06/14/16, *NON-CODE PROVISION*: eff. 09/12/16.]

[34.11 - 34.20 reserved.]

**34.21 STATUTORY OFFENSES; SUBCHAPTER II. (1)** Sections 34.21 through 34.30, inclusive, of this chapter shall constitute and are hereafter referred to as Subchapter II.

[History: 34.21 cr., OA 22, 1996-97, pub. 09/19/96; am., Sub. 1 to OA 29, 1998-99, pub. 06/17/99.]

**34.22 STATUTORY OFFENSES; CONSTRUCTION AND INTENT. (1)** Subchapter II is intended to provide a prosecutorial alternative for acts which may otherwise be violations of state law.

(2) Any act required to be performed by a statute incorporated into Subchapter II by reference is required by this ordinance, and any act prohibited by any such statute is prohibited by this ordinance. The defenses available under state law are also available to corresponding provisions under this Subchapter II.

(3) It is the intent of this subchapter that its various provisions be construed in the same manner as the corresponding state law.

[History: 34.22 cr., OA 22, 1996-97, pub. 09/19/96.]

**34.23 STATUTORY OFFENSES; RESTRICTIONS ON SALE OR GIFT OF CIGARETTES, NICOTINE PRODUCTS OR TOBACCO PRODUCTS. (intro.) References.** In subsection (1), all references to sections and chapters are to those of the Wisconsin Statutes.

(1) *Definitions.* In this section:

(a) *Cigarette* has the meaning given in s. 139.30(1).

(b) *Distributor* means any of the following:

1. A person specified under s. 139.30(3).
2. A person specified under s. 139.75(4).

(c) *Identification card* means any of the following:

1. A license containing a photograph issued under ch. 343.
2. An identification card issued under s. 343.50.
3. An identification card issued under s. 125.08, 1987 Stats.

(d) *Jobber* has the meaning given in s. 139.30(6).

(e) *Manufacturer* means any of the following:

1. A person specified under s. 139.30(7).
2. A person specified under s. 139.75(5).

(f) *Nicotine product* has the meaning given in s. 134.66(1)(f).

(g) *Retailer* means any person licensed under s. 134.65(1).

(h) *School* has the meaning given in s. 118.257(1)(c).

(hm) *Stamp* has the meaning given in s. 139.30(13).

(i) *Subjobber* has the meaning given in s. 139.75(11).

(j) *Tobacco products* has the meaning given in s. 139.75(12).

(k) *Vending machine* has the meaning given in s. 139.30(14).

(L) *Vending machine operator* has the meaning given in s. 139.30(15).

(2) *Restrictions.* (a) No retailer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber, and no agent or employee of an independent contractor may sell or provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person under the age of 18, except as provided in s. 254.92(2)(a), Wis. Stats. A vending machine operator is not liable under this paragraph for the purchase of cigarettes, nicotine products, or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

(am) No retailer, manufacturer, distributor, jobber or subjobber, no agent, employee or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber, and no agent or employee of an independent contractor may provide for nominal or no consideration cigarettes, nicotine products, or tobacco products to any person except in a place where no person younger than 18 years of age is present or permitted to enter unless the person who is younger than 18 years of age is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

(b) 1. A retailer shall post a sign in areas within his or her premises where cigarettes nicotine products, or tobacco products are sold to consumers stating that the sale of any cigarette, nicotine product, or tobacco product to a person under the age of 18 is unlawful under this section and s. 254.92, Wis. Stats.

2. A vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette, nicotine product, or tobacco product by a person under the age of 18 is unlawful under s. 254.92, Wis. Stats., and that the purchaser is subject to a forfeiture of not to exceed \$50.

**(c) 1.** A retailer or vending machine operator may not sell cigarettes, nicotine products, or tobacco products from a vending machine unless the vending machine is located in a place where the retailer or vending machine operator ensures that no person younger than 18 years of age is present or permitted to enter unless he or she is accompanied by his or her parent or guardian or by his or her spouse who has attained the age of 18 years.

**2.** Notwithstanding sub. (1), no retailer may place a vending machine within 500 feet of a school.

**(d)** No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under s. 139.32(1), Wis. Stats.

**(3) Defense: Sale to Minor.** Proof of all of the following facts by a retailer, manufacturer, distributor, jobber or subjobber, an agent, employee, or independent contractor of a retailer, manufacturer, distributor, jobber or subjobber, or an agent or employee of an independent contractor who sells cigarettes, nicotine products, or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. (2)(a):

**(a)** That the purchaser falsely represented that he or she had attained the age of 18 and presented an identification card.

**(b)** That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18.

**(c)** That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.

**(4) Penalties. (a) 1.** In this paragraph, *violation* means a violation of sub. (2)(a), (am), (c) or (d) or a local ordinance which strictly conforms to sub. (2)(a), (am), (c) or (d).

**2.** A person who commits a violation is subject to a forfeiture of:

**a.** Not more than \$500 if the person has not committed a previous violation within 12 months of the violation; or

**b.** Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

**3.** A court shall suspend any license or permit issued under s. 134.65, 139.34 or 139.79, Wis. Stats., to a person for:

**a.** Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;

**b.** Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or

**c.** Not less than 15 days nor more than 30 days, if the court finds that the person committed the violation within 12 months after committing 3 or more other violations.

**4.** The court shall promptly mail notice of a suspension under subd. 3. to the department of revenue and to the clerk of each municipality which has issued a license or permit to the person.

**(b)** Whoever violates sub. (2)(b) shall forfeit not more than \$25.

**(5) Local ordinance.** This section does not apply within any town, village or city that has adopted or adopts an ordinance under s. 134.66(5), Wis. Stats.

[History: 34.23 cr., OA 22, 1996-97, pub. 09/19/96; am., OA 24, 2004-05, pub. 02/16/05; (1) – (3) am., OA 25, 2013-14, pub. 02/03/14.]

**34.235 STATUTORY OFFENSES; PURCHASE OR POSSESSION OF CIGARETTES, NICOTINE PRODUCTS, OR TOBACCO PRODUCTS BY PERSON UNDER 18 PROHIBITED.**

**(1)** No person under 18 years of age may falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product.

**(2)** No person under 18 years of age may purchase, attempt to purchase or possess any cigarette, nicotine product, or tobacco product except as follows:

**(a)** A person under 18 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

**(b)** A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under s. 254.916, Wis. Stats., that is conducted in accordance with s. 254.916(3), Wis. Stats.

**(3)** A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product that has been sold to and is in the possession of a person under 18 years of age.

**(4) Penalties. (a)** Any person who violates this section shall be subject to a forfeiture of not less than Five Dollars (\$5.00) nor more than Twenty-Five Dollars (\$25.00) and shall, in addition thereto, be subject to all associated court costs and costs of prosecution.

**(b)** Any order imposing a forfeiture shall include a finding that the juvenile alone is financially able to pay and shall allow up to twelve (12) months for said payment to be made.

**(5) Local ordinance.** This section does not apply within any city, village or town that has adopted or adopts its own ordinance pursuant to s. 254.92, Wis. Stats.

[History: cr., Sub. 1 to OA 28, 2007-08, pub. 11/12/07; (1) – (3) am., OA 25, 2013-14, pub. 02/03/14.]

#### **34.24 STATUTORY OFFENSES; SCHOOL ATTENDANCE REGULATIONS. (1)** In this section:

**(a)** *Dropout* has the meaning given in s. 118.153(1)(b), Wis. Stats.

**(b)** *Habitual truant* has the meaning given in s. 118.16(1)(a), Wis. Stats.

**(c)** *Operating privilege* has the meaning given in s. 340.01(40).

**(d)** *Truant* means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16(4), Wis. Stats., for part or all of any day on which school is held during a school semester.

**(1g)** It shall be a violation of this section for any person who is required by state law to attend school to be either a truant, a habitual truant or a dropout.

**(1m)** The following dispositions are available to the court for a violation of this section:

**(a)** An order for the offender to attend school.

**(b)** A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to s. 938.37, Wis. Stats., and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the offender, the parents or guardian of the offender, or both.

**(2)** The following dispositions are available to the court in the case of a habitual truant:

**(a)** Suspension of the offender's operating privilege for not less than 30 days nor more than one year. The court shall immediately

take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

**(b)** An order for the offender to remain at home except during hours in which the offender is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit an offender to leave his or her home if the offender is accompanied by a parent or guardian.

**(c)** An order for the offender to attend an educational program as described in s. 938.34 (7d), Wis. Stats.

**(d)** An order for the department of workforce development to revoke, under s. 103.72, Wis. Stats., a permit under s. 103.70, Wis. Stats., authorizing the employment of the offender.

**(e)** An order for the offender to be placed in a teen court program as described in s. 938.342 (1g)(f), Wis. Stats.

**(f)** An order for the offender to attend school.

**(g)** A forfeiture of not more than \$500 plus costs, subject to s. 938.37, Wis. Stats. All or part of the forfeiture plus costs may be assessed against the offender, the parents or guardian of the offender, or both.

**(h)** Any other reasonable conditions consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

**(i)** An order for the offender's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's or legal custodian's own expense or to attend school with the offender, or both.

**(2m) (a)** A court may suspend the operating privilege of an offender who is at least 16 years of age but less than 18 years of age and is a dropout. The court may suspend the offender's operating privilege until the offender reaches the age of 18. The court shall immediately take possession of any suspended license and forward it to the department of transportation together with a notice stating the reason for and the duration of the suspension.

**(b)** A court may order a school district to provide to the court a list of all persons who are known to the school district to be dropouts and who reside within the county in which the circuit court is located. Upon request, the State of Wisconsin Department of Transportation shall assist the court to determine which dropouts have operating privileges.

(3) An offender who is under 17 years of age on the date of disposition is subject to s. 938.342, Wis. Stats.

[History: 34.24 cr., Sub. 1 to OA 29, 1998-99, pub. 06/17/99.]

**34.25 MERCURY THERMOMETERS BANNED.**

(1) *Purpose and authority.* The purpose of this ordinance is to promote the public health and safety by protecting the citizens of Dane County from toxic mercury pollution. This purpose is served by eliminating mercury containing devices such as small thermometers which may otherwise enter the solid waste stream. This section is enacted under the authority of ss. 59.03(2)(a), 59.54(6) and 59.70(2)(h) of the Wisconsin Statutes.

(2) *Sale of mercury fever or basal thermometers prohibited.* No person shall sell at retail or offer for sale at retail within the unincorporated area of Dane County any fever thermometer or basal thermometer containing mercury.

[History: 34.25 cr., OA 4, 2000-01, pub. 07/26/00.]

**34.26 DIESEL POWERED MOTOR VEHICLE IDLING.**

(1) *Purpose and authority.* The purpose of this ordinance is to protect the public health of the citizens of Dane County and the environment by reducing emissions from diesel powered motor vehicles. This section is enacted under the authority of s. 59.03(2)(a), Wis. Stats.

(2) *Applicability.* This ordinance shall apply in the unincorporated areas of Dane County to the operation of diesel powered commercial motor vehicles as defined by s. 340.01(8), Wis. Stats.

(3) *Excessive idling prohibited.* No person responsible for the operation of a diesel powered commercial vehicle shall allow or cause the vehicle to idle with the motor running in Dane County for more than five (5) minutes in a sixty (60) minute period.

(4) *Exceptions.* The provisions of sub. (3) shall not apply:

- (a) to emergency service vehicles, such as fire apparatus, public safety vehicles or ambulances;
- (b) during traffic conditions over which the driver has no control or at the direction of a law enforcement official;
- (c) to airport support equipment;
- (d) to vehicles being serviced or repaired; or

(e) to vehicles idling when necessary to operate auxiliary equipment that is required to accomplish the intended use of the vehicle.

(f) When the outside air temperature is above 80 degrees F a vehicle subject to this ordinance that is equipped with air conditioning may idle for not more than fifteen (15) consecutive minutes.

(g) When the outside air temperature is below 40 degrees F a vehicle subject to this ordinance may idle for not more than fifteen (15) consecutive minutes.

(h) When the outside temperature is below -10 degrees F the restrictions of this ordinance shall not apply.

(i) Operating a defroster, heater, air conditioner, emergency lighting or installing equipment solely to prevent a safety or health emergency and not as part of a rest period;

(j) The primary propulsion engine idles for maintenance, servicing, repair or diagnostic purposes if idling is required for such an activity;

(k) Part of a state or federal inspection to verify that all equipment is in good working order if idling is required as part of the inspection;

(L) Idling of the primary propulsion engine is necessary to power work-related mechanical or electrical operations other than propulsion, including, but not limited to, mixing, dumping or processing cargo; operating a lift, generator, crane, pump, drill, hoist, or other auxiliary mechanical equipment; straight truck refrigeration, utility service restoration or to protect prescription or over-the-counter drug products. This exemption does not apply when idling for cabin comfort or to operate nonessential on-board equipment;

(m) Off-road equipment or transit buses are in immediate stand-by mode for passenger loading/unloading, project and/or worker safety, for readiness of an upcoming phase of a specific project element, or is needed for a stop-and-go project element.

(n) An armored vehicle idles when a person remains inside the vehicle to guard the contents or the vehicle is being loaded or unloaded;

(o) Necessary for regeneration of exhaust emission control devices or to recharge batteries on a hybrid vehicle;

(p) A passenger bus idles a maximum of 15 minutes in any 60-minute period to maintain passenger comfort while non-driver passengers are on board;

(q) Idling due to mechanical difficulties over which the operator has no control if the vehicle owner submits the repair paperwork or product receipt by mail within 30 days to the appropriate authority verifying that the mechanical problem has been fixed. If no repair paperwork is submitted within 30 days, the vehicle owner is subject to penalties as provided in subsection 5; (r) Truck driving schools.

(5) Penalties. Any person who violates this section shall be subject to a forfeiture of \$50.00 for each violation.

[History: 34.26 cr., Sub. 1 to OA 22, 2010-11, pub. 03/16/11.]

[34.27 - 34.30 reserved.]

**34.31 STATUTORY OFFENSES; SUBCHAPTER III.** Sections 34.31 through 34.50, inclusive, of this chapter shall constitute and are hereafter referred to as Subchapter III.

[History: 34.31 cr., OA 26, 1996-97, pub. 10/17/96; am., Sub. 1 to OA 29, 1998-99, pub. 06/17/99.]

[34.32 – 34.36 reserved.]

[History: 34.32 cr., OA 26, 1996-97, pub. 10/17/96; (1) and (2) am., Sub. 1 to OA 29, 1998-99, pub. 06/17/99; 34.32 rep., OA 40, 2000-01, pub. 05/15/01.]

[History: 34.33 cr., OA 26, 1996-97, pub. 10/17/96; 34.33 rep., OA 40, 2000-01, pub. 05/15/01.]

[History: 34.34 cr., OA 26, 1996-97, pub. 10/17/96; 34.34 rep., OA 40, 2000-01, pub. 05/15/01.]

[History: 34.35 cr., OA 26, 1996-97, pub. 10/17/96; 34.35 rep., OA 40, 2000-01, pub. 05/15/01.]

[History: 34.36 cr., OA 34, 1999-2000, pub. 04/27/00; eff. 04/28/00; 34.36 rep., OA 40, 2000-01, pub. 05/15/01.]

**34.37 STATUTORY OFFENSES; COMMERCIAL GAMBLING.** [intro.] The following provisions of Wisconsin Statutes, including acts amendatory thereto, relating to gambling and gambling devices are hereby adopted by reference and made a part of this ordinance:

- (1) Section 945.03(1m), Wis. Stats., relating to commercial gambling.
- (2) Section 945.03(2m), Wis. Stats., relating to video gambling machines on premises for which a Class “B” or “Class B” license or permit has been issued under ch. 125, Wis. Stats.
- (3) Section 945.035, Wis. Stats., relating to certain slot machines on premises for which a

license or permit under ch. 125, Wis. Stats., has been issued.

(4) Section 945.04(1m), Wis. Stats., relating to permitting premises to be used for commercial gambling.

(5) Section 945.04(2m), Wis. Stats., involving the setup or use of not more than 5 video gambling machines on premises for which a class “B” or “Class B” license or permit has been issued under ch. 125, Wis. Stats.

(6) Section 945.05(1), Wis. Stats., relating to commercial dealing in gambling devices.

(7) Section 945.05(1m), Wis. Stats., involving the commercial transfer of a video gambling machine or the possession of a video gambling machine with the intent to transfer commercially.

[History: 34.37 cr., OA 32, 2000-01, pub. 02/27/01.]

[34.38 - 34.98 reserved.]

**34.99 PENALTIES.** (1) Any person who violates any provisions of chapter 34 of this code shall be subject to a forfeiture as set forth in sub. (2) hereof, and shall in addition be subject to a forfeiture for the court costs and costs of prosecution, and in default of either of these, such person shall be confined in the Dane County Jail for not more than 30 days.

(2) Schedule.

<u>Section</u>	<u>Forfeiture</u>
34.01(1-3) First offense	\$10-\$100
34.01 (1-3) Second and subsequent offenses	
within one year	\$25-\$200
34.01(4) Not more than	\$1000
34.015	\$10-\$100
34.02	\$10-\$200
34.03	\$20-\$100
34.04	\$25-\$100
34.05	\$10-\$200

(3) Any person who violates any provision of section 34.06 of this chapter shall forfeit not more than \$50.

(4) Any person who violated s. 34.09(1) or 34.10 shall forfeit not more than \$500.00

(5) Each day of violation of any provision of this chapter shall constitute a separate offense.

[History: am., OA 28, 1985-86, 04/15/86; (6) cr., Sub. 3 to OA 28, 1990-91, pub. 03/11/91, eff. 06/01/91; (2) am., OA 27, 2006-07, pub. 01/18/07; (6) rep., Sub. 2 to OA 11, 2008-09, pub. 10/10/08, eff. 08/15/09; (4) am. and (5) cr., Sub. 1 to OA 30, 2011-12, pub. 01/30/12; (4) am., Sub. 2 to 2016 OA-13, pub. 06/14/16, NON-CODE PROVISION: eff. 09/12/16; (2) am., Sub. 1 to 2022 OA-20, pub. 08/29/22.]

**34.991 PENALTIES FOR VIOLATION OF SECTION 34.08.** (1) Any person who violates s. 34.08 is subject to the following penalties:

- (a) For a first violation, a forfeiture of \$5.00.
- (b) For a second violation, a forfeiture of \$25.00.
- (c) For a third or more subsequent violations, a forfeiture of not less than \$50.00 nor more than \$200.00.

(2) If the defendant agrees to perform community service work in lieu of paying a forfeiture, assessments and costs, the court may order that the defendant perform community service work for a public agency or a nonprofit charitable organization that is designated by the court. The court shall ensure that the defendant is provided a written statement of terms of the community service order.

[History: 34.991 cr., Sub. 1 to OA 29, 2001-02, pub. 04/11/02, eff. 07/11/02.]

[History: 34.994 cr., OA 26, 1996-97, pub. 10/17/96; (4) cr., OA 4, 2000-01, pub. 07/26/00; 34.994 rep., OA 40, 2000-01, pub. 05/15/01.]

**34.995 PENALTIES; CONTINUED.** (1) Any person who violates any provision of section 34.37(1) shall forfeit not less than \$500 nor more than \$10,000.

(2) Any person who violates any provision of subsections (2) or (5) of s. 34.37 shall be penalized as follows:

- (a) If the violation involves one video gambling machine, the person may be required to forfeit not more than \$500.

(b) If the violation involves 2 video gambling machines, the person may be required to forfeit not more than \$1,000.

(c) If the violation involves 3 video gambling machines, the person may be required to forfeit not more than \$1,500.

(d) If the violation involves 4 video gambling machines, the person may be required to forfeit not more than \$2,000.

(e) If the violation involves 5 video gambling machines, the person may be required to forfeit not more than \$2,500.

(3) Any person who violates any provision of section 34.37(3) shall forfeit not less than \$25 nor more than \$500.

(4) Any person who violates section 34.37(4) shall forfeit not less than \$200 nor more than \$10,000.

(5) Any person who violates any provision of section 34.37(6) shall forfeit not less than \$250 nor more than \$10,000.

(6) Any person who violates any provision of section 34.37(7) shall forfeit not less than \$100 nor more than \$500.

[History: 34.995 cr., OA 32, 2000-01, pub. 02/27/01.]

[History: Ch. 34 am., OA 14, 1986-87, adopted 08/21/86, by substituting "Sheriff Department" for "Traffic Department."]

END OF CHAPTER