

Chapter 9.12

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

9.12.010 Prohibition of noises disturbing the public peace.

9.12.020 Gambling, lotteries, fraudulent devices and practices prohibited.

9.12.030 Loitering prohibited.

9.12.040 Consumption and possession of alcohol beverages on public ways and property.

9.12.050 Glue and paint sniffing and unlawful sales.

9.12.060 Drug paraphernalia.

9.12.070 Cemeteries.

9.12.010 Prohibition of noises disturbing the public peace.

A. It is unlawful for any person to make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.

B. It is unlawful for any person, firm, corporation, or other entity occupying or having charge of any building or premises, or any part thereof, to cause, suffer or allow any loud, excessive or unusual noise in the operation or use of any radio, stereo or other mechanical or electrical device, instrument or machine, which loud, excessive or unusual noise tends to unreasonably disturb the comfort, quiet or repose of persons therein or in the vicinity. (Editorially amended during 2001 codification; prior code § 9.06)

9.12.020 Gambling, lotteries, fraudulent devices and practices prohibited.

All forms of gambling, lotteries, and fraudulent devices and practices are prohibited within the town. Any police officer of the town shall seize anything devised solely for gambling or found in actual use for gambling within the town and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling. (Prior code § 9.07)

9.12.030 Loitering prohibited.

A. Loitering or Prowling. No person shall loiter or prowl in a place, at a time or in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself or manifestly endeavors to conceal himself 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 to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this subsection 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.

B. Obstruction of Traffic by Loitering. No person shall loaf or loiter in groups or crowds upon the public streets, alleys, sidewalks, street crossing or bridges or in

any other public places within the town in such manner as to prevent, interfere with or obstruct the ordinary free use of such public streets, sidewalks, streets, street crossings and bridges or other public places by persons passing along and over the same.

C. Loitering after Being Requested to Move. No person shall loaf or loiter in groups or crowds upon the public streets, sidewalks or adjacent doorways or entrances, street crossings or bridges or in any other public place or on any private premises without invitation from the owner or occupant, after being requested to move by any police officer or by any person in authority at such places.

D. Loitering in Public Places. No person shall loiter, lounge or loaf in or about any depot, theater, dance hall, restaurant, store, public sidewalk, public parking lot or other place of assembly or public use after being requested to move by any police officer. Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request. (Editorially amended during 2001 codification; Ord. dated 8/11/86; prior code § 9.21)

9.12.040 Consumption and possession of alcohol beverages on public ways and property.

A. No person shall consume any intoxicating liquor or fermented malt beverage upon the public highways, streets, alleys, sidewalks, street crossings, bridges, public parking lots or premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned, in the town except for municipally approved community functions or events where authorized by specific resolution of the town board of supervisors.

B. All purchases of intoxicating liquor or fermented malt beverage by the glass or in open containers shall be consumed on the

licensed premises where served, and shall not be removed therefrom to any public highway, street, alley, sidewalk, street crossing, bridge, public parking lot or premises held out to the public for use of their motor vehicles, whether such premises are publicly or privately owned, within the town.

C. No person shall bring upon, use, consume, sell or convey any intoxicating liquor or fermented malt beverage in or upon any property, building or other structure which is owned or under the control of the town except in such places as may be designated by the town and in accordance with the rules and regulations as may be from time to time adopted by the town board. (Prior code § 9.16)

9.12.050 Glue and paint sniffing and unlawful sales.

A. Definition. As used in this section, “toxic glue, paint or other toxic substance” shall mean any glue, adhesive cement, mucilage, plastic cement or any similar substance, or paint or other toxic substance containing one or more of the following volatile substances: acetone, benzene, butyl alcohol, cyclohexanone, ethyl acetate, ethyl alcohol, ethylene dichloride, hexane, isopropyl alcohol, methyl alcohol, methyl cellosolve acetate, methyl ethyl ketone, methyl isobutyl ketone, pentachlorophenol, petroleum ether, trichloroethylene, tricresyl phosphate, toluene, toluol, aliphatic and chlorinated hydrocarbons, chloroform, carbon tetrachloride or any other chemical capable of producing intoxication when inhaled.

B. Prohibitions.

1. No person shall inhale or otherwise introduce into his respiratory tract any toxic glue, paint or other toxic substance, or any vapors or fumes which may be released from any toxic glue, paint or toxic substance with the intent of becoming intoxicated, elated,

excited, stupefied, irrational, paralyzed or of changing, distorting or disturbing his eyesight, thinking process, judgment, balance or muscular coordination.

2. No person shall, for the purpose of violating or aiding another to violate any provision of this section, possess, buy, sell, transfer possession or receive possession of any toxic glue, paint or other toxic substance.

3. No person shall sell or transfer possession of any toxic glue, paint or other toxic substance to any person under eighteen (18) years of age; however, one tube or container of toxic glue may be sold or transferred to a child under eighteen (18) years of age immediately in conjunction with the sale or transfer of a model kit, if the kit requires approximately such a quantity of the glue for assembly of the model, and that nothing contained in this section shall be applicable to the transfer of a tube or other container of such glue from a parent to his child or from a legal guardian to his ward. (Prior code § 9.20)

9.12.060 Drug paraphernalia.

A. Definition. In this section “drug paraphernalia” means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, as defined in Chapter 961, Wis. Stats., in violation of this section. It includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled

substance or from which a controlled substance can be derived;

2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;

4. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

7. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;

9. Capsules, balloons, envelopes or other containers used, intended for use or designed for use in packaging small quantities of controlled substances;

10. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;

11. Hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances into the human body;

12. Objects used intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine,

hashish or hashish oil into the human body, including but not limited to:

- a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls,
- b. Water pipes,
- c. Carburetion tubes and devices,
- d. Smoking and carburetion masks,
- e. Objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand,
- f. Miniature cocaine spoons and cocaine vials,
- g. Chamber pipes,
- h. Carburetor pipes,
- i. Electric pipes,
- j. Air-driven pipes,
- k. Chillums,
- l. Bongs,
- m. Ice pipes or chillers.

B. Determination of Drug Paraphernalia. In determining whether an object is drug paraphernalia, the following shall be considered:

1. Statements by an owner or by anyone in control of the object concerning its use;
2. Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance;
3. The proximity of the object in time and space to a direct violation of this section;
4. The proximity of the object to controlled substances;
5. The existence of any residue of controlled substances on the object;
6. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner or of anyone in

control of the object as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Oral or written instructions provided with the object concerning its use;
8. Descriptive materials accompanying the object which explain or depict its use;
9. National and local advertising concerning its use;
10. The manner in which the object is displayed for sale;
11. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;
12. The existence and scope of legitimate uses for the object in the community;
13. Expert testimony concerning its use.

C. Prohibited Activities.

1. Possession of Drug Paraphernalia. No person may use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.
2. Manufacture, Sale or Delivery of Drug Paraphernalia. No person may sell, deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this section.
3. Delivery of Drug Paraphernalia to a minor. Any person eighteen (18) years of age or over who violates subsection (C)(2) of this section by delivering drug paraphernalia to a person under eighteen

(18) years of age is guilty of a special offense.

4. Advertisement of Drug Paraphernalia. No person may place in any newspaper, magazine, handbill or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

5. Exemption. This subsection does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Chapter 961, Wis. Stats. This section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Chapter 161, Wis. States.

D. Penalties.

1. Any drug paraphernalia used in violation of this section shall be seized and forfeited to the city.

2. Any person who violates subsection (C)(1), (2) or (4) of this section, shall, upon conviction, be subject to a forfeiture of not more than five hundred dollars (\$500.00), together with the costs of prosecution, and upon default of payment, unless the person is indigent, be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed twenty (20) days.

3. Any person who violates subsection (C)(3) of this section shall, upon conviction, be subject to a forfeiture of one thousand dollars (\$1,000.00), together with the costs of prosecution, and upon default of payment, unless the person is indigent, be imprisoned in the county jail or house of correction until the costs are paid, but not to exceed forty (40) days. (Editorially amended during 2001 codification; Ord. dated 3/12/90: prior code § 9.24)

9.12.070 Cemeteries.

A. Conduct Prohibited. No person shall drive on grass, pick flowers, break any trees, shrubs, bushes, plants, vases or urns, or write upon, mark or deface in any manner, or in any manner injure any monument, fence or other structure in any cemetery.

B. Presence Prohibited During Nighttime. No person shall be within the boundaries of any cemetery between the hours of sunset and sunrise, except by written permission signed by the cemetery sexton. (Prior code § 9.19)