

# CHAPTER 16

## PUBLIC PEACE AND GOOD ORDER

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# PUBLIC PEACE AND GOOD ORDER

## 16.01 GENERAL PROVISIONS

### **(1) Definitions**

For the purpose of this Chapter, the definitions of words and phrases contained in Wis. Stat. Chapters 939 to 948, 961 and Wis. Stat. s. 990.01 are hereby adopted and by reference made a part hereof with the same force and effect as if fully set forth herein.

### **(2) Incorporation of Certain Statutory Offenses**

#### (a) Provisions Included

The sections and subsections of the Wisconsin Statutes describing, defining and prohibiting conduct and cross references contained therein, which are enumerated from time to time in this Chapter, are hereby adopted and by reference made a part of this Chapter with the same force and effect as if fully set forth herein, exclusive of any provision relating to penalties. Any act required to be performed or prohibited by any statute incorporated by reference is required or prohibited by this Chapter.

#### (b) Interpretation

In those enumerated sections and subsections of Wisconsin Statutes:

1. Whenever the word "crime" is used, it shall be taken to mean "offense".
2. Whenever the phrase "criminal intent" is used, it shall be taken to mean "intent".

### **(3) Attempt**

- (a) Whoever attempts to commit an offense under this section may be fined not to exceed one-half the maximum penalty for the completed offense.
- (b) An attempt to commit an offense requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such offense and that he or she does acts toward the commission of the offense which demonstrates, under the circumstances, that he or she formed that intent and would commit the offense except for the intervention of another person or some other extraneous factor.

### **(4) Parties to Offense**

- (a) Whoever is concerned in the commission of an offense is a principal and may be charged with and convicted of the commission of the offense although she or he did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other offense based on the same act.
- (b) A person is concerned in the commission of the offense if that person:
  1. Directly commits the offense; or
  2. Intentionally aids and abets the commission of it; or

3. Is a party to a conspiracy with another to commit it or advises, hires, counsels, or otherwise procures another to commit it.

## 16.02 OFFENSES AGAINST BODILY SECURITY

### (1) State Laws Adopted

Code Subsection	Description	Statutory Reference
(a)	Battery	940.19
(b)	Abuse of Children	940.201
(c)	Battery to Peace Officer, Firefighter	940.20 (1-4)
(d)	Injury by Negligent Use of Weapon	940.24
(e)	False Imprisonment	940.30
(f)	Sexual Assault	940.225 (3m)
(g)	Intimidation of Witness	940.42
(h)	Intimidation of Victim	940.44
(i)	Duty to Aid Endangered Crime Victim	940.34

## 16.03 OFFENSES AGAINST PUBLIC SAFETY AND WELFARE

### (1) State Laws Adopted

Code Subsection	Description	Statutory Reference
(a)	Concealed Weapons License Regulations	175.60(2g) and (16)
(b)	Possession of Controlled Substances	961.41 (3g), 66.0107(1)(bm) and (bn)
(c)	Negligent Operation of vehicle	941.01
(d)	Negligent Handling of Burning Materials	941.10
(e)	Unsafe Burning of Buildings	941.11
(f)	Interfering with or Failing to Assist in Firefighting	941.12
(g)	False Alarms and Interference with Firefighting	941.13
(h)	Reckless Use of Weapons	941.20(1), (2)
(i)	Possession of Pistol by Minor	948.60
(j)	Possession of Firearm within 1,000 feet of school	948.605(2)
(k)	Carrying Concealed Weapon	941.23
(l)	Carrying Handgun Where Alcohol Beverages Sold/Consumed	941.237

(m)	Possession of Switchblade Knife	941.24
(n)	Hazing	948.51
(o)	Emergency telephone Call	941.35
(p)	Obstructing Emergency Personnel	941.37
(q)	Carrying Firearms in Public Building	941.235
(r)	Possession of Electronic Weapon	941.295
(s)	Possession of Drug Paraphernalia	961.573(1),(2)961.574(1),(2) 961.575(1),(2)

**(2) Firearms and Ammunition; Discharge, Possession and Sale; Dangerous Weapons**

(a) Discharging Firearms

No person except a sheriff, police officer or other law officer or state licensed detective, security guard or commercial guard or messenger who is properly attired in the uniform of his/her employer, shall fire or discharge any firearm, rifle, spring gun, or pneumatic pellet gun of any description. This subsection shall not apply to the discharge of a firearm if the actor's conduct is justified or had it been subject to criminal penalty, would have been subject to a defense described in Wis. Stats. § 939.45.

(b) Possession of Ammunition and Sale to Minors

No minor person under the age of 18 years shall have in her or his possession any ammunition for any spring gun, air gun, or pneumatic pellet gun unless accompanied by a parent, guardian, or any person 18 years of age or older.

(c) No person shall intentionally sell or give away any dangerous weapon as defined in Wis. Stat. s. 939.22(10) or any other firearm, rifle, spring gun, air gun or pneumatic pellet gun, or ammunition therefore, to any person under the age of 18 years unless such person is accompanied by a parent or legal guardian.

(d) No person under the age of 18 years of age shall have in her or his possession any dangerous weapon as defined in Wis. Stat. s. 939.32(10), or any other firearm, rifle or ammunition therefore, unless accompanied by his or her parent or legal guardian.

(e) Supervised Ranges and Hunting within City

This section shall not prevent the maintenance and use of duly supervised target ranges authorized by the Common Council, but shall be deemed to prohibit hunting within the City, except where owners or occupants or private premises shall have been issued written permits to hunt or shoot on such premises by the Chief of Police after he or she shall have determined that such privileges are necessary for the protection of life or property and subject to such safeguards as may be imposed for the safety of the lives and property of other persons within the City.

(f) No person shall go armed with any of the following weapons within the City unless exempt hereunder:

1. Nunchuck or Nunchaku

An instrument consisting of two or more sticks, clubs or rods connected by a rope, cord, wire or chain.

2. Churkin

A round throwing knife consisting of several sharp points protruding from a rounded disc.

3. Sucbai

A short length of wood or metal or similar material which when gripped in the hand protrudes on either side of the fist. Such prohibited instrument has spikes or short pointed protrusions from either end.

4. Brass Knuckles

A metal item worn on the hand through which the fingers are inserted; so made that in hitting with the fist compressed, great bodily harm is inflicted.

(g) No person may sell, possess, use or transport any bomb, hand grenade, projectile, shell or other container of any kind or character in which tear gas or similar substance is used or placed for use to cause bodily discomfort in the City. The exemption provided for in Wis. Stat. s. 941.26(3) and 941.26(4)(a) shall apply to this provision.

(h) No person shall use or attempt to use any device or instrumentality in a manner which, by reference to the circumstances surrounding the use, is calculated to or is likely to produce great bodily harm.

(i) Exemption

1. The prohibitions expressed in paragraph (h) of this section shall not apply to any law enforcement officer involved in an official course of conduct or if the actor's conduct is justified or had it been subject to criminal penalty, would have been subject to a defense described in Wis. Stats. § 939.45.
2. The prohibitions expressed in paragraph (f) of this section shall not apply to any law enforcement officer implementing the provisions of paragraph (j) of this section.

(j) Disposal

1. Any item involved in an offense under section (h) above shall be seized and held for evidentiary purposes until any prosecution for such offense is finally completed. All items seized for offenses under section (f) or (g) shall be deemed contraband and either retained for appropriate public purpose by the police department or disposed of in a manner appropriate to the nature of the item. In no event shall such items be returned to the person from whom seized.
2. Any item seized for an offense under sections (a), (b), (c), (d) or (h) may be returned by the police department to its rightful owner after having made reasonable efforts to notify all persons who have or may have an interest in the item. Where practical, Wis. Stat. s. 968.20(2) and (3) shall apply. If the rightful owner fails to claim the item within 20 days after the said prosecution

is finally completed the police department shall dispose of as with other unclaimed property.

### **(3) Throwing or Shooting Arrows, Stones, and other Missile Prohibited**

No person shall throw, shoot or swing any dangerous weapon as defined in Wis. Stat. s. 939.22(10) or any other object, arrow, stone, snowball, or other missile or projectile, by hand or by any other means at any other person or at, in, or into any building, street, sidewalk, alley, highway, park, playground, or other public place within the City, provided, however, that this section shall not apply to a person using said weapon or object on private property under the person's control when such use endangers no other person or infringes upon no other person's property.

### **(4) Fireworks**

No person shall possess or use any fireworks without, or contrary to the requirements of, a permit under section 5.15 unless exempted thereunder. Any person found to have violated this subsection shall be subject to a penalty as provided in Section 30.04 of the City Ordinances. Each day on which such violation continues shall constitute a separate and distinct offense.

### **(5) Repealed O1425 11/01/2016**

### **(6) Unlawful Purchase or Possession of Laser**

#### 1. Definition

- (a) "Laser" means any laser pen, laser pointer, laser style flashlight or laser units of the following types: A Helium Neon (HeNe) laser which operates at wavelength of 832.8 nMe with a mandated power limit of 5mW. Said lasers are considered a Class 2 laser with the potential for eye injury. Or a diode laser which typically operates at a wavelength of 670 nMe (although others are possible) with a power source providing 5mW. Said lasers are considered Class 3a lasers, with the potential for eye injury.
- (b) "Direct supervision" means that the parent or legal guardian must be in such a position as to be able to visually monitor and physically control the behavior of the minor in question.

#### 2. No person under 18 years of age may do any of the following:

- (a) Purchase or attempt to purchase any laser.
- (b) Possess, except while under direct supervision of said minor's parent or legal guardian, any laser.
- (c) Falsely represent his or her age for the purpose of receiving any laser.

#### 3. No person shall sell, give or otherwise transfer a laser unit to any person under the age of 18 years who is not under the direct supervision of their parent or legal guardian at the time of the transfer.

#### 4. Unlawful Use of a Laser

It shall be unlawful for any person, to focus, point or shine a laser beam directly or indirectly on another person or animal in such a manner as is intended to harass, intimidate, threaten or annoy said person or animal. Sworn Police Officers,

working in their legal capacity, are exempted from the provisions contained in this section.

5. Penalty

Whoever shall violate this Chapter shall be subject to a penalty as prescribed in s. 30.04 of this code.

**(8) Dangerous Animals Regulated**

(a) Prohibitions

No person shall harbor keep or maintain within the City of Middleton any animal determined to be a dangerous animal except as provided under this section.

(b) Definitions

1. Dangerous Animal

Any animal that, without provocation, attacks or bites or has attacked or bitten a human being or domestic animal or has without provocation and off the property of its owner, chased, confronted or approached a person in a menacing fashion that would put a reasonable person in fear of attack or any animal owned or harbored primarily or in part for the purpose of animal fighting or any animal trained for animal fighting.

2. Provocation

Teasing, tormenting, abusing or assaulting an animal or attacking a person or acting in an overtly threatening manner suggesting the possibility of imminent attack toward a person that could reasonably be expected to cause an animal to react in a protective fashion.

(c) Enforcement

1. Enforcement Officers

This section may be enforced by any duly sworn law enforcement officer authorized to enforce City ordinances.

2. Procedure

- a. Any animal determined, with probable cause, to be dangerous within the City of Middleton shall be impounded according to the procedure set forth under Wis. Stats. §§ 173.13 and 173.21(1)(b). The Chief of Police or his or her designee shall make a written determination whether the animal should be destroyed, removed from the City or be released subject to restrictions. A copy of said determination shall be sent by certified mail to the owner's last known address.

The determination shall clearly state that an appeal of the determination may be had by filing written notice with the Police Department within five (5) business days of receipt of the determination. No animal shall be released unless the owner consents in writing to abide by the determination upon which the determination shall be considered final. If no appeal is filed, the determination becomes final. Violation of a final determination shall be considered a violation of this ordinance.



- b. All appeals shall be heard by the City Council which may affirm, reverse or modify the determination by a majority vote of the members present.
  - c. If the animal is not claimed or the owner cannot be located or refuses delivery of the determination, disposition of the animal shall be determined under Wis. Stats. § 173.23.
3. Any person violating this ordinance may be required to forfeit not less than \$50.00 nor more than \$500.00.

**(9) Unlawful 911 Calls**

- (a) No person shall intentionally call the 911 emergency telephone number for any purpose other than to report an actual emergency or a good-faith belief that an emergency exists, may exist or may soon exist.
- (b) An “emergency” under this subsection refers to circumstances under which an immediate response by public safety or emergency medical personnel is reasonably required to address situations involving bodily harm or life threatening illness or condition or property damage or loss occasioned by a potential violation of the law or other similar circumstances reasonably requiring an emergency response.
- (c) Any person found in violation of paragraph (a) shall be subject to a forfeiture not less than \$25, nor more than \$1,000.

**16.04 OFFENSES AGAINST PUBLIC AND PRIVATE PROPERTY**

**(1) State Laws Adopted**

Code Subsection	Description	Statutory Reference
(a)	(Criminal) Damage to Property	943.01
(b)	Theft	943.20
(c)	Fraud on Hotel or Restaurant Keeper	943.21
(d)	Issue of Worthless Check	943.24
(e)	Receiving Stolen Property	943.34
(f)	Credit Card Crimes	943.41
(g)	Retail Theft	943.50
(h)	Theft of Library Material	943.61
(i)	Graffiti	943.017
(j)	Removing or Damaging Encumbered Real Property	943.26
(k)	Theft of Cellular Telephone Service	943.455
(l)	Theft of Cable Television Service	943.46
(m)	Theft of Satellite Cable Programming	943.47

(n)	Obtaining Telecommunications Service by Fraud	943.45
(o)	Entry into Locked Vehicle	943.11
(p)	(Criminal) Trespass to Land	943.13
(q)	(Criminal) Trespass to Dwelling	943.14
(r)	Operating Vehicle Without Owner's Consent	943.23
(s)	Alteration of Property Identification Marks	943.37
(t)	Forgery	943.38
(u)	Theft from a Coin Box	943.125
(v)	Entry into a Construction Site or into a Locked Building, Dwelling, or Room	943.15

## **(2) Loitering**

- (a) A person commits a violation if he or she loiters or prowls 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 actor takes flight on appearance of a peace officer, refuses to identify him or herself, or manifestly endeavors to conceal him or herself or any object. Unless flight by the actor or other circumstances make it impractical, a peace officer shall prior to any arrest for an offense under this section afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting the actor to identify him or herself and explain the presence and or conduct. No person shall be convicted of an offense under this section if the police officer did not comply with the preceding sentence, or if it appears at trial that the explanation given by the actor was true and if believed by the peace officer at the time would have dispelled the alarm.
- (b) Prohibited Daytime Loitering by Minors
1. It is unlawful for any minor under the age of 18 years who is subject to compulsory education to loiter, congregate, wander, stroll, stand, play or be in or upon the public streets, highways, roads, alleys, parks, playground, or other public grounds, public places, public buildings, places or amusement, eating places, vacant lots, or any unsupervised place during hours of required school attendance. This prohibition shall apply to any area on school grounds in which the minor's presence is not authorized by school officials or official school policy. Unless flight by the actor or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted, by requesting the actor to identify him or herself and explain their absence from school, class or other conduct. Additionally, this section does not apply:
    - a. When the minor is accompanied by his or her parent, guardian or other adult person having the care or custody of the minor; or

- b. When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care or custody of the minor; or
- c. When the minor is going or coming directly from or to his or her place of gainful employment, or to or from a medical appointment; or
- d. To students who have permission to leave school campus for lunch or for school related activities and have in their possession a valid, school issued, off- campus permit.

### **(3) Littering Prohibited**

#### **(a) Generally**

No person shall throw any glass, rubbish, waste, or filth upon the streets, alleys, highways, public parks, or other property of the City or upon any private property not owned by her or him or upon the surface of any body of water within the City.

#### **(b) Handbills and Directories**

1. The Common Council of the City of Middleton finds and declares that posting and distributing handbills in the manner prohibited by this subsection constitutes a nuisance through the defacement of public property and private property and creation of litter. Unwanted telephone books have further become a source of public nuisance by creating waste and litter and a burden upon taxpayers for the cleanup, recycling and disposal of unwanted books.
2. The following terms shall have the meanings indicated:
  - a. "Directory" means a publication that lists and publishes the names, addresses and telephone numbers of telephone customers or the advertisements, products or services of businesses or professional firms.
  - b. "Handbill" means any printed or written matter, poster, lawn sign, sample circular, leaflet, pamphlet, paper, booklet, printed matter of literature, bumper sticker, decal or similar matter.
  - c. "Person" means any natural person, firm, partnership, association, corporation, company, public utility or organization of any kind.
  - d. "Public Place" means any street, sidewalk, alley, public way, public park, public square, public space, public grounds or public building.
3. **No Person Shall:**
  - a. Leave any handbill or directory upon a public place within the City of Middleton. This provision shall not be construed as prohibiting the direct distribution of handbills or directories to persons willing to accept them or to the authorized delivery of directories to governmental offices.
  - b. Affix any handbill to any lamppost, public utility pole, street sign, traffic sign, bus shelter, tree or upon any public structure or public building except for bulletin boards or kiosks provided by the City for such purpose. If the City provides a bulletin board or kiosk for limited purposes handbills posted inconsistent with such purpose shall be deemed in violation of this subsection.

- c. Leave any handbill or directory upon any private property which is conspicuously uninhabited or vacant.
- d. Leave any handbill upon private property if requested by the owner or any person in control of the property not to do so or if there is posted on the property in a conspicuous place near the entrance a sign bearing the words "No Trespassing," "No Peddlers or Agents," "No Advertising," "No Soliciting" or any similar notice indicating that the occupants of the property do not desire to have any handbills left upon the property. This prohibition shall not be construed as prohibiting the delivery of any handbill delivered through the United States Postal Service.
- e. Leave any handbill on property where handbills may be left under this subsection in a manner that permits the handbill to be carried away by the elements.
- f. Leave any directory or hand bill further than ten (10) feet from the gateway leading to, or entranceway of any residential, commercial or public structure except when delivery is made in a manner specifically requested by the owner of occupant of the property, or as such access to the structure is obstructed or other delivery is necessary to protect the health and safety of the party delivering the directory. This subparagraph shall not apply to deliveries through the United States Postal Service.
- g. Place a handbill on any motor vehicle.
- h. Distribute a directory without an accompanying notice conspicuously displayed informing the recipient of the manner in which they may contact the distributor by toll-free telephone call, U.S. mail or electronic mail to discontinue receiving the directory and that such notice shall discontinue the delivery of directories for a period of three (3) years. Upon receipt of such notice from a recipient, no directory shall be distributed for a period of three (3) years.

#### **(4) Unlawful Trespass on Private Property**

- (a) It shall be unlawful for any person to enter or remain on any property of another or to enter or remain in any building of another after having been notified by the owner or occupant not to enter or remain on such premises.
- (b) It shall be unlawful for any person to permit any animal belonging to him or her, or under his or her control, to trespass upon the property belonging to another person without the permission of the lawful owner or occupant.
- (c) It shall be unlawful for any person to enter or remain on any property of another in any district zoned for residential use and upon which a single-family or two-family dwelling is located without the expressed or implied consent of the owner, owner's agent or lawful occupant of said property or dwelling. This subsection (c) shall not apply to the following persons; however, these exceptions shall not be construed to repeal the right of any person to limit access to his or her property under subsection (a) of this section.
  - 1. Owners, owner's agents or occupants of adjacent property.

2. Messengers, delivery persons, postal workers, utility workers, governmental employees, or other such persons customarily allowed to enter private property in furtherance of the performance of specific, lawful, bona fide governmental functions or other services to the property or its owner, owner's agent or occupants.
  3. Any person entering for the purpose of making direct contact with the owner, owner's agent or occupant of said property or dwelling for any lawful purpose. Any such person shall remain on the property only as long as necessary to make such contact and shall vacate the premises immediately if it reasonably appears that contact cannot be made at that time or any contact with the owner, owner's agent or occupant is discontinued.
- (d) No person may, without the expressed or implied consent of the owner or lawful occupant, enter upon any property for the purpose of depositing any snow, ice, sand, gravel, building materials, tools, machinery, vehicles or other similar materials. A person shall be deemed to have entered property if such materials are deposited by the person upon such property even if the person did so without entering the property themselves. It shall be an affirmative defense to a charge under this paragraph that such deposit of materials was made as the result of a good-faith mistake in making an otherwise lawful delivery to the wrong property. For purposes of this paragraph, all property owners shall be deemed to have given implied consent to permit the delivery of mail, notices, handbills, directories, advertisements, or similar materials left in a manner reasonably consistent with commonly accepted practices for leaving such materials. (O1462, 4/3/18)

#### **(5) Fraud on a Taxicab or Bus Drive**

Whoever having obtained any transportation or other service from any taxicab or bus driver, intentionally absconds without paying for such transportation or other service is guilty of violation of this section and is subject to a penalty as provided in s. 30.04 of this Code.

#### **(6) Unlawful Use of a Bicycle**

No person shall take or operate any bicycle or other non-motorized vehicle without the consent of the owner. For the purpose of this ordinance, vehicle shall be as defined in Wis. Stat. s. 340.01.

#### **(7) Graffiti**

Whoever intentionally marks, draws, or writes with paint, ink, or another substance without the other persons consent is guilty of violating this ordinance.

#### **(8) Unlawful Operation of Skateboards, Skates, and Play Vehicles**

It shall be unlawful for any person to operate, cause to be operated or ride a coaster, skateboard, in-line skates, roller skates, roller skis or other play vehicle in any of the following places:

- (a) On any sidewalk in a commercial or business district except that the south side sidewalk on Terrace Avenue from Middleton Street to the west end of Quarry Park shall be exempt and shall be a designated skateboard route.
- (b) On any public property where signs are posted prohibiting such use.

- (c) On private property (open to the public) where signs are posted prohibiting such use, unless written permission has been given by the owner, lessee or person in charge of the property.

## **(9) Obstructing Streets and Sidewalks Prohibited**

### (a) Definitions

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

1. Loiter

To sit, stand, loaf, lounge, wander, or stroll in an aimless manner or to stop, pause, or remain in an area without specific, lawful purpose.

2. Nuisance

Conduct which prevents or obstructs the exercise of rights of passage or travel by another in or about any public street, sidewalk, bridge, or public ground located in the City.

3. Obstruct

Interference with travel by any means including, but not limited to, standing on the part of the street, sidewalk, bridge, or public ground that is fit and intended for travel or passage, or placing any vehicle or any other object whatsoever on such area so as to prevent travel or passage.

4. Sidewalk

Any sidewalk owned or maintained by the City or school district. The term shall not include sidewalks or walkways on private property and shopping centers, apartment complexes, and office building sites or any other private property.

5. Street

All public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel. It includes those roads or driveways in the City which have been opened to the use of the public for the purpose of vehicular travel. It includes all roads or driveways in the City which have been opened to the use of the public for the purpose of vehicular travel and roads or driveways upon the grounds of public schools as defined in Wis. Stats. § 115.01(1), and institutions under the jurisdiction of the County Board of Supervisors, but it does not include private roads or driveways as defined in Wis., Stats. § 340.01(46).

### (b) Obstructing Streets

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

1. Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon.
2. Prevent or hinder free ingress and egress to or from any place of business, or amusement, church, public building, school, or meeting place.

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

(c) Obstructing Sidewalk Prohibited

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

**(10) Climbing on Motor Vehicles Prohibited**

No person shall climb, lay, sit, kneel upon or enter the motor vehicle of another person without permission from the owner or person in lawful possession of such vehicle.

**(11) Camping on Public Property Prohibited**

- (a) Due to the lack of appropriate bathroom, waste or wastewater disposal or other sanitation facilities and the inconsistency or current uses of City property and public right of way with safe, healthy or otherwise appropriate camping uses, it shall be unlawful for any person to camp upon any lands owned by the City of Middleton including any public right of way.

(b) Camping Defined

For purposes of this section, "camping" shall mean the use of a shelter, such as a tent, trailer, motor vehicle, recreational vehicle, boat, camper, mobile home, tarpaulin, bedroll, or sleeping bag for temporary residence or sleeping purposes.

(c) Exceptions

1. Sleeping in a vehicle for no longer than four (4) hours where it becomes necessary to do so for traffic safety purposes.
2. Where permission is given pursuant to section 21.01(2)(m) or 21.03(2)(1) of these ordinances.
3. Camping for no longer than three (3) nights in a trailer, camper, recreational vehicle or mobile home designed for camping purposes for the purpose of visiting a City resident maintaining a lawful residence. Such camping may be permitted for a period not to exceed fourteen (14) days upon the written permission of the Chief of Police. Such permission shall not be granted more than once per calendar year with respect to any camper, resident, trailer, camper, recreational vehicle or mobile home. All City parking regulations shall be observed. Such permission shall be requested by the City resident and shall be granted upon the satisfactory provision of the following information:
  - a. The resident's full name and address.
  - b. The date or dates the camping will be taking place.
  - c. The full name of the owner of the trailer, camper recreational vehicle or mobile home.
  - d. License plate number and any other identifying information requested for the trailer, camper, recreational vehicle or mobile home.
  - e. The full names of each person who will be camping.

- f. Plans for bathroom use, waste or wastewater disposal and any other information requested relating to public health or hygiene concerns.
4. Notwithstanding the forgoing exceptions, any Police Officer may summarily order any person or persons to immediately cease any camping activities covered by this section upon a finding of probable cause that the person or one member of a group of persons camping has violated any provision of the Wisconsin Statutes or these Ordinances during any time reasonably proximate to the camping activity. Any such person or persons so ordered may not camp under any of the forgoing exceptions for a period of twelve (12) months from the date of the order.

## 16.05 OFFENSES AGAINST PUBLIC PEACE, GOOD ORDER, AND OTHER PUBLIC INTERESTS

### (1) State Laws Adopted

Code Subsection	Description	Statutory Reference
(a)	Disorderly Conduct	947.01
(b)	Bomb Scares	947.015
(c)	Unlawful Assemblies and Their Suppression	947.06
(d)	False Swearing	946.32
(e)	Contributing to the Delinquency of Children	948.40
(f)	Refusing to Aid Officer	946.40
(g)	Resisting or Obstructing Officer	946.41
(h)	Escape	946.42
(i)	Personating Peace Officers	946.70
(j)	Interference with Custody of child	948.31
(k)	Tampering with Public Records and Notices	946.72
(l)	Unlawful Use of Telephone	947.012
(m)	Mistreating Animals	951.02
(n)	Dognapping and Catnapping	951.03
(o)	Providing Proper Food and Drink to Confined Animals	951.13
(p)	Providing Proper Shelter	951.14
(q)	Animals, Neglected or Abandoned, Police Powers	951.15
(r)	Lewd and Lascivious Behavior	944.20
(s)	Prostitution	944.30



(t)	Patronizing Prostitutes	944.31
(u)	Pandering	944.33
(v)	Gambling	945.02
(w)	Permitting Premises to be Used for Commercial Gambling (re: see below table *16.05(1)(w))	945.04
(x)	Commercial Gambling(re:see below table*16.05(1)(x)	945.03
(y)	Drinking on Common Carriers	947.04
(z)	Transportation of Animals	951.05
(aa)	Sexual Gratification	944.17
(bb)	Harassment	947.013
(cc)	Compulsory School Attendance and Municipal Truancy Enforcement (re: see below table *16.05(1)(CC))	118.15 and 118.163
(dd)	Contributing to Truancy	948.45
(ee)	Pawnbrokers and Secondhand Article Dealers and Secondhand Jewelry Dealers (re: see below table *16.05(1)(ee)	134.71
(ff)	Unlawful use of computerized communication systems	947.0125
(gg)	Dangerous Weapons other than firearms on school premises	948.61

**\*16.05(1)(w) PERMITTING PREMISES TO BE USED FOR COMMERCIAL GAMBLING**

The amendments to Wis. Stats. sec. 945.03 and 945.04, as set forth in 1999 Wisconsin Act 9, Sections 3191bd., 3191 bf., 3191 bh. and 3191 bj. are hereby specifically adopted by reference.

**\*16.05(1)(x) COMMERCIAL GAMBLING**

The amendments to Wis. Stats. sec. 945.03 and 945.04, as set forth in 1999 Wisconsin Act 9, Sections 3191bd., 3191 bf., 3191 bh. and 3191 bj. are hereby specifically adopted by reference.

**\*16.05(1)(cc) TRUANCY AND SCHOOL DROPOUTS**

(a) Definitions in this section:

1. "Dropout" has the meaning given in Wis. Stats. sec. 118.153(1)(b).
2. "Habitual Truant" has the meaning given in Wis. Stats. sec. 118.16(1)(a).
3. "Truant" means a pupil who is absent from school without an acceptable excuse under Wis. Stats. sec 118.15 and 118.16(4) for part or all of any day on which school is held during a school semester.

(b) Habitual Truancy

No person under 18 years of age shall be a habitual truant from the school the person is supposed to be attending.

(c) Dropout

No person who is at least 16 years of age but less than 18 years of age shall be a dropout.

(d) Truancy

No person under the age of 18 years of age shall be a truant from the school the person is supposed to be attending.

(e) Dispositions; Habitual Truancy, School Dropout, and Truancy

1. Habitual Truancy

If the Court finds that a person under 18 years of age violates Section 16.05(15)(3)(B) of this Code, the Court shall enter an Order making one or more of the following dispositions:

- a. Suspend the person's operating privileges, as defined in Wis. Stats, sec. 340.01(40) for not less than thirty (30) days nor more than one (1) year. The Court shall immediately take possession of the suspended license and forward it to the Department of Transportation, together with a notice stating the reason for and duration of the suspension.
- b. Order the person to participate in counseling or a supervised work program. The costs of such counseling or supervised work program may be assessed against the person, the parents or guardian of the person, or both.
- c. Order the person to remain at home except during hours in which the person 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 a person to leave his or her home if the person is accompanied by a parent or guardian.
- d. Order the person to attend an educational program under Wis. Stats. sec 938.34(7d).
- e. Order the Department of Workforce Development to revoke, under Wis. Stats. sec. 103.72 a permit under Wis. Stats. sec. 103.70 authorizing the employment of the person.
- f. Order the person to be placed in a teen court program if all of the following conditions apply:
  1. The Chief Judge of the Judicial Administrative District has approved a teen court program established in the person's county of residence and the judge determines participation in the teen court program will likely benefit the person and the community.
  2. The person admits or pleads no contest in open court, with the person's parent, guardian or legal custodian present, to the allegations the person violated the civil law or ordinance.
  3. The person has not successfully completed participation in a teen court program during the two years before the date of the alleged civil law or ordinance violation.
- g. Order the person to attend school.

- h. Impose a forfeiture of not more than \$500 plus costs, subject to Wis. Stats. sec. 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardians of the person, or both.
- i. Impose any other reasonable conditions consistent with Wis. Stats. sec. 118.163, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
- j. Place the person under formal or informal supervision, as described in Wis. Stats. sec. 938.34(2), for up to one year.
- k. Order the person'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 person, or both.

## 2. School Dropout

If the Court finds a person is subject to and has violated section 16.05(1)(cc)(3)(c) of this Code, the Court may suspend the person's operating privilege, as defined in Wis. Stats. 340.01(40), until the person reaches the age of 18. The Court shall immediately take possession of any suspended license and forward it to the Department of Transportation along with a notice stating the reason for and the duration of the suspension.

## 3. Truancy

If the Court finds a person under 18 years of age violated section 16.05(1)(cc)(3)(d) of this Code, the Court shall enter an Order making one or more of the following dispositions:

- a. Order the person to attend school.
- b. Impose a forfeiture of not more than \$50 plus costs for the first violation, or a forfeiture of \$100 plus costs for any 2nd or subsequent violation committed within twelve (12) months of a previous violation, subject to sec. 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 person, the parents or the guardian of the person, or both.

### **\*16.05(1)(ee) PAWNBROKERS AND SECONDHAND ARTICLE DEALERS AND SECONDHAND JEWELRY DEALERS**

Notwithstanding any provision of Wis. Stats. § 134.71(8)(c), for each transaction of purchase, receipt, or exchange of any secondhand article or secondhand jewelry from a customer, a pawnbroker, secondhand article or secondhand jewelry dealer shall electronically submit the required property transaction information to an electronic reporting service specified by the Middleton Police Department by the close of business each day according to the following procedures:

- (a) Pawnbrokers, secondhand article and secondhand jewelry dealers using point of sale software shall ensure compatibility of their software with the specified electronic reporting service, and shall electronically transfer all required

information from their computer to the specified electronic reporting service via internet connection.

- (b) Pawnbrokers, secondhand article and secondhand jewelry dealers not using point of sale software shall either acquire point of sale software and adhere to the requirements set forth in paragraph (a) above, or, if the specified electronic reporting service allows, manually enter all reportable transactions into the database via internet connection.
- (c) Pawnbrokers, secondhand article and secondhand jewelry dealers subject to electronic reporting shall take a color, digital photograph of every item purchased, received, or exchanged that does not have a unique serial or identification number affixed. This section specifically includes jewelry. One group photo shall suffice for mass items acquired in one transaction. When a photograph is taken it must be maintained in such a manner that it can be readily matched and correlated with all other records of the same transaction, and must be made available for inspection by law enforcement for a period of not less than one year from the date of transaction.
- (d) Each customer shall sign his or her name on a declaration of ownership form or electronic reporting system which shall be provided by the pawnbroker, secondhand article, or secondhand jewelry dealer. The declaration of ownership form shall state the customer is the rightful owner of the secondhand article. The pawnbroker, secondhand article or secondhand jewelry dealer shall retain the original declaration of ownership form for not less than one year after the date of the transaction. Declaration of ownership forms shall be made available to any law enforcement officer for inspection at any reasonable time.
- (e) In addition to the holding periods specified under Wis. Stats. 134.71(8)(d), the City of Middleton also requires the following retention periods prior to the reselling of secondhand goods:
  - 1. Thirty (30) days for articles or jewelry purchased by a pawnbroker.
  - 2. Fifteen (15) days for articles purchased by a secondhand jewelry dealer.
  - 3. Fifteen (15) days for articles purchased by a precious metals dealer.
  - 4. Ten (10) days for articles purchased by a secondhand article dealer.
  - 5. Fifteen (15) days for video games electronically reported and purchased by a secondhand article dealer.

## **(2) Prohibition of Noises Disturbing the Peace**

No person and no person, firm, or corporation occupying or having charge of any building or premises, or any part thereof, shall within the City:

- (a) 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 same cannot be prevented or is necessary for the protection or preservation of property or of the health, safety, life, or limb of some person.
- (b) Cause, suffer or allow any loud, excessive or unusual noise in the operation or use of any radio, phonograph, or other mechanical or electronic or electrical device, instrument or machine, which loud, excessive or unusual noise shall tend to unreasonably disturb the comfort, quiet, or repose of persons therein or in the vicinity.

- (c) Keep or allow to be kept any animal or bird which shall habitually by any noise tend to unreasonably disturb the peace and quiet of any person in the vicinity thereof.
- (d) No person, firm or corporation shall use or operate, or cause to be used or operated in or upon any public street, or from any aircraft, any device, apparatus or instrument for the unreasonable amplification of the human voice or any sound or noise, or other sound making or sound producing device except between the hours of 11:00 AM and 1:30 PM and 5:00 PM and 7:00 PM, Sunday through Friday, and from 9:00 AM to 7:00 PM on Saturday, provided however that such restriction shall not apply to churches broadcasting on religious holidays, or to the production of sounds of any nature produced incidental to the operation of any authorized emergency vehicle or to the use of sound producing equipment authorized pursuant to Wisconsin Statutes or to the use of sound producing equipment used incidental to any street use or parade permit. No person, firm, or corporation shall unreasonably make or cause to be made for the purpose of advertising or announcing a vocation or presence, or in connection with the buying or selling of any goods, wares, merchandise, services or anything whatsoever, or with the carrying on of any trade, occupation, vocation or profit making activity, an unreasonably immediate or excessive use of the voice, or of any bell, gong, horn, instrument, article or device. The violation of this section in connection with any license or permit shall be cause for the revocation thereof.
- (e) Operation of Certain Tools, Machinery, and Equipment
1. No person shall operate any heavy construction or other heavy machinery, tools or equipment used for construction, including, but not limited to, pile drivers, bulldozers, pneumatic hammers, derricks, dump trucks, cement trucks, cement mixers, steam or electric hoists, or any other similar equipment other than between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday, except Federal and State holidays, unless such operation is not plainly audible at any time from within any occupied residential structure. (O1467, 6/19/18)
  2. The prohibitions of this subsection shall not apply to any activities relating to public construction projects performed by, or commenced pursuant to contract with, the City, Dane County, State of Wisconsin, Federal Government or agencies thereof. This exception shall not apply to private construction or construction of public improvements solely by virtue of the existence of a developer's agreement entered into pursuant to land division or zoning approvals unless specifically provided for in such agreement.
  3. The Building Inspector shall have the authority in his or her discretion, upon determining that due to unique circumstances beyond the control of the applicant results in significant hardship upon the applicant so extraordinary and of such nature as to warrant special consideration, to grant a variance permit only for that period of time necessary to alleviate the significant hardship within which time such operation may take place within the prohibited hours. In all cases, the Building Inspector shall give due consideration to the cause, nature and degree of the hardship and the effect on neighboring property owners' reasonable expectations to peacefully use and enjoy their property. The Building Inspector shall issue such permit if

written consent is obtained from at least one adult member of each residence within 150 feet of such operation.

(f) Operation of Refuse Collection Vehicles and Refuse Compacting Equipment

1. No Person Shall:

- a. Collect refuse or permit the collection of refuse with a refuse collection truck between the hours of 10:00 p.m. and 6:00 a.m. within two hundred (200) feet of any residential zoned district or any Planned Unit Development dwelling.
- b. Operate or permit the operating of any compacting equipment mechanism of any motor vehicle which compacts refuse between the hours of 10:00 p.m. and 6:00 a.m. within two hundred (200) feet of any residential zoned district or any Planned Unit Development dwelling.

2. The Following Exceptions Apply:

- a. The Public Works Committee may designate certain locations as exempt from the provision, if it determines that such exemption is necessary because of public safety.
- b. The Director of Public Works may determine that an emergency exists, because of fire, flood, civil disturbance, or the like. During such a period of emergency, this subsection shall not apply. No such period of emergency may continue for more than fifteen (15) consecutive days, unless the Common Council approves the longer period.
- c. This section shall not apply during and for a period of forty-eight (48) hours after the conclusion of a "special event." A "special event" is one for which a Street Use Permit has been issued under Section 8.07 of this Code.

(g) Compression Brakes Prohibited

No operator of any truck or other motor vehicle shall use compression brakes. The term "compression brake", also commonly referred to as "jake brake" or "engine brake", means a device which uses the engine of a truck or other motor vehicle through the compression of air or other gasses for the purpose of braking. It shall be an affirmative defense under this section that compression brakes were used in an emergency situation which could not have been reasonably foreseen or otherwise avoided by an alert motor vehicle operator and was necessary to prevent immediate danger to life or property. This prohibition shall not apply to public safety vehicles including, but not limited to fire trucks, emergency medical vehicles or police vehicles.

- (h) The Common Council finds that deliveries of supplies to businesses adjacent to residences between the hours of 10:00 p.m. and 6:00 a.m. has the tendency to create an unreasonable noise and disturbance of the residential use and that it is not unreasonable to require business supplies to be delivered outside of those hours. No person shall, therefore, make, cause to make, receive, or cause to be received any deliveries to any commercial business adjacent to any residence in the City of Middleton between the hours of 10:00 p.m. and 6:00 a.m.. This subsection shall not be construed to prohibit emergency or non-routine deliveries

during normal business hours that can be carried by a single person and is transported by a passenger vehicle. Further, this ordinance shall not apply where such deliveries are specifically permitted in a Specific Implementation Plan in a Planned Development District under sections 10.82 and 10.89 of this Code.

- (i) Nothing in this subsection shall be construed to prohibit the operation of snow removal equipment of any kind unless said equipment is in a condition or is operated in such a manner that it creates noise of a kind, quality or volume that is significantly different than the noise such equipment would reasonably be expected to make.

### **(3) Possession of False Identification**

No person shall knowingly possess identification that has been altered so as to not be true and accurate, nor shall any person present for identification purposes a document that is not true and accurate identification for said person.

### **(4) Assisting Escape of Prisoner**

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

### **(5) Public Obscene Language and Sexual Conduct Prohibited**

No person shall in any public place use any obscene language or sexual conduct within the City of Middleton. Definitions:

- (a) "Language" means words or sounds or gestures or any combination thereof.
- (b) "Obscene" means language or sexual conduct which:
  1. Taken as a whole appeals to prurient interest in sex, and
  2. Which taken as a whole portray sexual conduct in a patently offensive way, and
  3. Which taken as a whole do not have serious literary, artistic, political or scientific value.
- (c) "Sexual Conduct" means 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.

### **(6) Curfew**

#### **(a) Minors Under Fifteen**

It shall be unlawful for any person under the age of fifteen (15) to be upon the streets or alleys or other public areas in the City between the hours of 10:00 pm and 5:00 am Sunday through Thursday and between the hours of 11:00 pm and 5:00 am Friday and Saturday, unless accompanied by a parent or legal guardian.

#### **(b) Minors Over Fifteen and Under Eighteen**

It shall be unlawful for any person fifteen (15) years of age and over and under the age of eighteen (18) years to be upon the streets or alleys or other public areas in the City between the hours of 11:00 pm and 5:00 am Sunday through Thursday and between the hours of 12:00 am (midnight) and 5:00 am Friday and Saturday unless accompanied by a parent or legal guardian.

- (c) The provisions of subsections (a) and (b) shall not apply if:
  - 1. The minor is going home from a school sponsored activity when the activity ends after the applicable curfew, or
  - 2. The minor is going to or returning from their place of employment.
  - 3. The minor is traveling directly between home and a bona fide organized political or religious gathering or event in the exercise of the minor's First Amendment rights under the United States Constitution.
- (d) No parent or legal guardian shall knowingly permit their child or ward to be on the streets, alleys or other public areas in the City of Middleton in violation of subsections (a) or (b).

### **(7) Unlawful Sheltering of Minors**

No person, organization, agency or corporation shall, unless duly licensed under the Wisconsin Statutes or without having first obtained the permission of the parents or legal guardian of any minor or without first notifying the City of Middleton Police Department of the presence of a minor described in paragraph (a) on premises owned or operated by or under the control of such person, organization or agency or corporation:

- (a) By any means conceal or shelter, or assist in the concealing or sheltering of any minor under the age of eighteen (18) years while the minor is under the legal custody of the parents or legal guardian and while the minor is on report with any law enforcement agency as a "missing person" or "runaway" or a "wanted person" or
- (b) Supply false information to or obstruct any police officer in the performance of duties to locate or to take into custody any minor described in this section.

### **(8) Burning of Grass and Trash Restricted**

#### (a) Grass Fires Regulated

No person shall kindle any grass fire within the City without first securing a written permit from the City Clerk who shall issue such permit only upon approval of and subject to any conditions for the protection of life and property imposed by the Fire Chief.

#### (b) Outdoor Burning Restricted

No person shall kindle any fire in or upon any street, alley, public way, park or any public or private ground within the City, except for cooking purposes in an appropriate receptacle.

### **(9) Destruction of Birds and Squirrels**

No person shall willfully or wantonly kill, destroy, catch, wound, maim, worry or molest any song bird or squirrel, nor shall any person permit any dog or cat owned by him or her or in his or her charge to chase, worry, molest or disturb any song bird or squirrel within the City.

### **(10) Unauthorized Presence on School Property Prohibited**

- (a) No person other than a student of the particular school, parent or guardian of such student, or employee or agent of the Middleton-Cross Plains Area School District shall be present in the building or on the grounds operated by the District during regular school hours on any day when the school is in session without having first



secured authorization to be there from the principal or other person in charge of said school building or school grounds, except while in direct route to secure said authorization. "Authorized Person" shall include any person who is present at any school building or school grounds for any purpose previously authorized by the Board of Education or its designee.

- (b) Any person shall, upon request of the principal or other person in charge of any school building or upon any school grounds under the jurisdiction of the School Board, or upon request of any police officer, display any written authorization to be present which he or she may have, in his or her possession or otherwise explain his presence or his or her status as such student, employee, parent or guardian, or "authorized person" referred to in subsection (a) hereof.
- (c) A student who has been suspended or expelled from a school shall not be considered a student of said school during the period of such suspension or expulsion and is prohibited from being present on any school building premises or grounds at any time throughout the period of such suspension or expulsion without express written permission from an authorized representative of the District.
- (d) Any student who, through written agreement with District officials, is placed on a reduced schedule or an alternate educational placement plan shall be guilty of a violation of this ordinance if located on school property outside of their designated hours of attendance.
- (e) All entrances to the school building referred to in subsection (a) hereof shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited". All school grounds referred to in subsection (a) hereof shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited".
- (f) If a school is an official polling place, subsection (a) shall not apply to an elector entering said building on a designated election day to cast his or her ballot.
- (g) No person shall be present in any school building or area of a school building before or after regular school business hours unless such presence is in furtherance of a legitimate purpose previously authorized by the Board of Education, its designee, or the principal or other person in charge of the building. Presence in areas of a school building which, under the circumstances, is not reasonably necessary or related to the legitimate and authorized purpose shall be considered a violation of this section.
- (h) Unless flight by actor or other circumstances make it impractical, a peace officer shall, prior to any arrest for an offense under this section afford the actor an opportunity to dissipate any alarm which would otherwise be warranted by requesting the actor to identify him or herself and explain their purpose and authorization.

### **(11) Consumption of Alcoholic Beverages**

No person shall carry, or expose to view, any open can, bottle or any other container of fermented malt beverage or intoxicating liquor, or drink from the same, on any sidewalk, street, alley, parking lot or other public place except municipal golf courses and public parks in which the consumption of fermented malt beverages is authorized by the Park, Recreation and Forestry Commission. For purposes of this ordinance, a "public place" means any location

within the City which, at the time the person is apprehended, is open to access to persons not requiring specific permission of the owner to be at such location including, without exclusion by way of enumeration, all parking lots serving commercial establishments. In no event shall a private yard in a residentially zoned district be construed to be a "public place".

### **(12) Firearms in Public Buildings**

- (a) Pursuant to Wis. Stats. § 943.13(1m)(c)4., no person shall enter or remain in any part of a building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying a firearm or a specific type of firearm or dangerous weapon as defined by Wis. Stats § 939.22(10).
- (b) The City Administrator shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the City of Middleton providing notice that no person is to enter or remain in any such building while carrying a firearm or dangerous weapon. Such signs shall be five inches by seven inches or larger.
- (c) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm or dangerous weapon in any public building. Notwithstanding Wis. Stats. § 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.
- (d) Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. §§ 941.23 or 941.235.

### **(13) Sale or Gifts of Tobacco Products Prohibited**

Wis. Stat. s. 134.66 is hereby adopted by reference.

### **(14) Juvenile Purchase or Possession of Cigarettes and Tobacco Products Prohibited**

Wis. Stat. s. 254.92 is hereby adopted by reference.

### **(15) Feeding of Deer Prohibited**

- (a) No person may place any salt, mineral, grain, fruit or vegetable matter outdoors on any public or private property for the purpose of feeding whitetail deer.
  - 1. Presumptions

There shall be a rebuttable presumption that either of the following acts is for the purpose of feeding whitetail deer:

    - a. The placement of salt, mineral, grain, fruit or vegetable material in aggregate quantity of greater than one-half gallon at the height of less than six feet off the ground.
    - b. The placement of salt, mineral, grain, fruit or vegetable material in any aggregate quantity of greater than one-half gallon in a drop feeder, automatic feeder or similar device regardless of the height of the grain, fruit or vegetable material.

## 2. Exceptions

This ordinance shall not apply to the following situations:

### a. Hunting

The placement of bait for the purpose of hunting whitetail deer subject to all other laws, ordinances, rules and regulations governing hunting and the discharge of hunting weapons.

### b. Naturally Growing Materials

Naturally growing grain, fruit or vegetable material, including gardens.

### c. Bird Feeders

Unmodified commercially purchased bird feeders or their equivalent.

### d. Authorized by Common Council

Deer feeding may be authorized on a temporary basis by the Common Council for a specific public purpose as determined by the Common Council.

### e. Counting

Deer feeding may be authorized on a temporary basis by the City Public Lands Manager for the purpose of determining the deer population.

## **(16) Animal Abatement Orders**

- (a) Any violation of Section 16.05(l), (m), (o), (p), or (q) of this Code or any violation of Wis. Stats. Chapter 951 may result in prosecution and an abatement action pursuant to Wis. Stats. § 173.11, including an abatement order by a humane officer, animal control officer, or a law enforcement officer.

(b) Hearing

Any person named in the abatement order, initiated under subsection (a) may appeal such order to the Chief of Police or his/her designee by filing a Notice of Appeal with the Police Department within ten (10) days of the date of service of the abatement order. The Notice of Appeal must state the grounds for the appeal. The Chief of Police or his/her designee shall schedule a hearing to be held within ten (10) days of receipt of the appeal, unless the requester agrees to a later date. The Chief of Police or his/her designee shall make reasonable efforts to notify the appellant, the officer initiating the order, and any other interested party of the hearing and the opportunity to present evidence and testimony. The hearing shall be informal in nature. After this hearing, the Chief of Police or his/her designee will determine whether to affirm, conditionally affirm, or reject the abatement order. Within ten (10) days after the hearing, the Chief of Police or his/her designee shall issue its decision in writing and serve a copy of the decision by first class mail upon the appellant and any other party requesting a copy.

- (c) No person who has participated in the decision to issue an abatement order under this section shall hear an appeal of that order. If the Chief of Police participants in the decision to issue an abatement order and that order is appealed, the duties under subsection (b) above shall be undertaken by the City Administrator or

his/her designee who shall not be an employee of the Police Department but shall be a city official.

(d) Appeal

Any person adversely affected by a decision under subsection (b) may seek judicial review by commencing an action in Circuit Court within thirty (30) days after the day that the decision was issued.

**(17) Number of Cats and Dogs Limited**

(a) Purpose

The Common Council finds that keeping large numbers of cats and dogs contributes to the degradation of the public health and general welfare by tending to create unreasonable noise and pet odors and possession of large numbers of cats or dogs can create serious health risks when the burden necessary care and cleaning overwhelm individuals charged with the care of such animals. The Council further finds that based upon recent experience, addressing such public health and welfare issues on a case by case basis relying solely on the existence of actual public or private nuisances is not an effective or practical method of addressing such issues and that by contrast, it is not unreasonable to limit the numbers of cats and dogs harbored, sheltered or possessed and that such a regulation provides a more effective and practical method of addressing the public health and general welfare concerns attendant to the keeping of a large number of such pets.

(b) Definitions

1. "Fostering Facility" means a facility that has been approved by the Dane County Humane Society to foster animals.
2. "Kennel" means any premises or portion thereof where dogs or cats are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale.
3. "Premises" means any parcel of land including improvements considered a single unit for purposes of use or occupancy. As applied to multi-family dwellings, the term shall refer to each dwelling unit.
4. "Rescue Facility" means a facility that has been approved by the American Kennel Club or other nationally recognized animal organization to care for abandoned or abused animals.

(c) Prohibition

No person shall harbor, shelter or possess more than five (5) dogs or cats or any combination thereof upon a single premises.

(d) Exceptions

The above subsection shall not apply to the following presuming compliance with any applicable zoning or licensing provisions of the City of Middleton, Dane County or State of Wisconsin:

1. Dogs and cats under the age of five (5) months.

2. Service Animals as that term is used and interpreted by the Americans With Disabilities Act.
3. Premises upon which five (5) or more individual cats or dogs or combination thereof are regularly harbored, sheltered or possessed at the time this ordinance is adopted. Each dog must have been properly licensed at the time this ordinance is adopted. The dogs and cats must be kept in a safe and sanitary environment in conformity with all existing ordinances and statutes and not constitute a public or private nuisance.
4. Fostering or Rescue Facilities
5. Pet shops
6. Veterinary Hospitals or Clinics
7. Kennels
8. Grooming parlors

**(18) Keeping of Wild Animals Prohibited**

- (a) No person shall keep, harbor, possess or maintain any poisonous reptile, not including rear-fanged snakes, any other dangerous or carnivorous wild animal, insect or reptile or any other animal or reptile species of wild, vicious or dangerous propensities within the City of Middleton. Such animals include, but are not limited to:
1. Nonhuman primates and prosimians (e.g. chimpanzees, monkeys);
  2. Felids, except domesticated cats;
  3. Canids (e.g. wolf, coyotes, foxes) except domesticated dogs;
  4. Prairie dogs;
  5. Elephants;
  6. Crocodilians (e.g. alligators, crocodiles);
  7. Marsupials (e.g. kangaroos, opossums), except sugar gliders;
  8. Ungulates (e.g. hoofed animals, pigs, hippopotamus, rhinoceros); except species that are traditionally domesticated and that do not reach a size greater than 300 pounds.
  9. Hyenas;
  10. Mustelids (e.g. skunks, otters, badgers), except ferrets;
  11. Procyonids (e.g. raccoons, coatis);
  12. Dasypodidae (e.g. anteaters, sloth, armadillos);
  13. Viverrids (e.g. mongooses, civets, genets);
  14. Reptilia over ten (10) feet in length (e.g. boa constrictors, pythons);
  15. Venomous reptilian, except rear fanged snakes.
- (b) The prohibitions of this subsection shall not apply to:
1. Animals kept, harbored, possessed or maintained in accordance with a valid license issued under Wis. Stats. Chaps. 169 or 95;

2. Animals kept, harbored, possessed or maintained by a veterinarian, for the purpose of providing medical treatment to such animal;
  3. A public zoo or aquarium accredited by the American Zoo and Aquarium Association;
  4. A circus as defined under Wis. Stats. § 169.01(4);
  5. Animals kept pursuant to authorization of the Department of Natural Resources.
  6. Traditionally domesticated animals transported and possessed pursuant to a valid Special Event Permit issued under Section 7.17 specifically permitting the use of such animals for activities such as petting zoos, pony rides, carriage rides or hay rides. (*O1473, 9/18/18*)
- (c) In addition to the penalties under Section 16.07, the Police Department may act pursuant to Section 16.03(8), Wis. Stats. §§173.11, and 173.13 through 173.23 or, if the circumstances present an imminent threat to the animal, the animal's owner, any person residing with the owner, or to the public health and safety, the Police Department may seize the animal or otherwise pursue injunctive relief as prescribed by law. The actual costs of any action taken under this paragraph may be charged to the property upon which the animal is kept pursuant to Wis. Stats. §66.0627.
- (d) Potential owners of animals prohibited by this Ordinance may seek an exemption by petitioning the Middleton Common Council. An application shall be filed on a form prescribed by the City Clerk, along with a fee of \$30.00 per animal. Exemptions shall be granted only for constricting snakes greater than ten (10) feet and any species that, while it may fall within a family or genus specifically listed in subsection (a), is demonstrated to the satisfaction of the Common Council to be a species that does not commonly have wild, vicious or dangerous propensities. All exceptions for constricting snakes shall be subject to reasonable conditions to ensure the safe and secure keeping and care of the snake in accordance with recognized standards

### **(19) Prohibitions Relating to Operation of Drones**

- (a) For purposes of this subsection, the term "drone" shall have the same meaning as set forth in Wis. Stats. §941.292(1).
- (b) The following statutory prohibitions are hereby adopted, however, to the extent such prohibitions apply to aircraft other than drones, such provisions shall not apply unless expressly adopted elsewhere:
  1. Interference with hunting, fishing or trapping - Wis. Stats. §29.083(2)(a)8.
  2. Flying and landing, limitations - Wis. Stats. §114.04.
  3. Intoxicated and reckless flying - Wis. Stats. §114.09(1)(b)1., 1m, 2, (2)(a)1, and (c).
  4. Possession of a weaponized drone - Wis. Stats. §941.292. Use of a Drone - Wis. Stats. §942.10. (*O1436, 3/21/17*)

## 16.06 OFFENSES AGAINST REPUTATION AND CIVIL LIBERTY

### (1) State Laws Adopted

Code Subsection	Description	Statutory Reference
(a)	Defamation	942.01
(b)	Communication of Identity of Victim of Offensive Crime	942.02
(c)	Giving False Information for Publication	942.03
(d)	Denial of Rights	942.04
(e)	Opening Letters	942.05

### 16.07 PENALTIES

Any person who shall violate any provision of this Chapter shall, upon conviction thereof, be punished as follows:

- (1) For a violation of any provision of this Chapter which adopts a state law by reference, the forfeiture shall be the same as the penalty for violation of the statute, and where the State law provides no monetary penalty the forfeiture shall be no greater than \$500.00.
- (2) For a violation of any other provision of this Chapter the penalty shall be as provided in s. 30.04 of this Code.