

CHAPTER 31

OFFENSES AGAINST PUBLIC PEACE AND SAFETY

31.01 RESISTING OR OBSTRUCTING AN OFFICER. (1) Whoever knowingly resists or obstructs an officer while such officer is doing any act in his official capacity and with lawful authority shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days.

31.02 DISORDERLY CONDUCT. Whoever does any of the following shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and the costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days.

(1) In a public or private place, engages in violent, abusive, indecent, profane, boisterous, unreasonably loud, or otherwise disorderly conduct under circumstances in which such conduct tends to cause or provoke a disturbance; or

(2) With intent to annoy another, makes a telephone call, whether or not conversation ensues.

(3) Engages in the discharging of a firearm in the waters of Green Bay within the geographic limits of Brown County in that area; which is within 100 feet of the bulkhead shoreline as determined by the U.S. Army Corps of Engineers and also which is located adjacent to shorelands zoned residential by the adjoining municipality.

31.03 ICEBOUND INLAND WATERS. (1) Title and Intent. This section shall be known, cited, and referred to as the Brown County Icebound Inland Waters Ordinance. The intent of this section is to provide safe and healthful conditions for the enjoyment of recreation on icebound inland waters consistent with public rights and interests.

(2) Jurisdiction and Applicability. This section is adopted pursuant to the authority contained in Section 30.81(2) of the Wisconsin Statutes. The provisions of this section shall apply to any of the icebound inland waters over which Brown County has jurisdiction, except icebound inland lakes which are regulated by valid local ordinances enacted pursuant to Section 30.81(1) of the Wisconsin Statutes.

(3) Traffic Rules. Every person operating a motor vehicle, including a boat or snowmobile, shall comply with the following traffic rules:

(a) When two motor vehicles are approaching each other "head and head", or so nearly so as to involve risk of collision, each motor vehicle shall bear to the right and pass the other on its left side.

(b) When two motor vehicles are approaching each other obliquely or at right angles, the motor vehicle which has the other on its right shall yield the right of way to the other.

(c) A motor vehicle may overtake and pass another on either side if it can be done with safety, but the motor vehicle doing the overtaking shall yield the right of way to the one being overtaken.

(d) Motor vehicles shall not be parked so as to block a normal traffic lane that is used by other vehicles.

(e) No person shall operate any motor vehicle unless such motor vehicle carries the lighting equipment required by Wisconsin Statutes governing that particular type of motor vehicle.

(4) Prohibited Operation of Motor Vehicles, including Snowmobiles, on icebound inland waters. No person shall operate a motor vehicle in the following manner:

(a) At a rate of speed that is unreasonable or improper under the circumstances.

(b) In any careless way so as to endanger the person or property of another.

(c) While under the influence of intoxicating liquor, fermented malt beverages, or controlled substances.

(d) Within 100 feet of a person not in or upon a vehicle or within 100 feet of a fishing shanty unless operated at a speed of 10 miles per hour or less.

(e) At a rate of speed that is in excess of 40 miles per hour on Duck Creek River from the mouth of said river on the bay of Green Bay to the village limits of the Village of Howard, except those portions on Duck Creek River in the Village of Howard described in subsection (4)(f).

(f) At a rate of speed that is in excess of 20 miles per hour on Duck Creek River from the bridge located at County Trunk Highway J to the railroad bridge adjacent to the intersection of County Trunk Highway J and LaComa Street within the village limits at the Village of Howard.

(5) Liability. All traffic on icebound inland waters shall be at the risk of the traveler. This chapter permitting traffic on icebound inland waters shall not render Brown County liable for any accident to those engaged in permitted traffic.

31.04 OPERATION OF SNOWMOBILES. Except as otherwise specifically provided in this section or other ordinances, all provisions of Chapter 350 of the Wisconsin Statutes describing and defining regulations with respect to snowmobiles for which the penalty is a forfeiture only, including penalties to be imposed and procedure for prosecution, are hereby adopted and by reference made a part of this section as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this section. Sections of the Wisconsin Statutes adopted herein shall have the same number in this code and may be so cited.

Sections of Chapter 350 adopted by reference shall include but not be limited to the following:

350.01	Definitions
350.02	Operation of snowmobiles on or in the vicinity of highways
350.03	Right-of-way
350.045	Public utility exemption
350.05	Operation by youthful operators restricted
350.07	Driving animals
350.08	Owner permitting operation
350.09	Head lamps, tail lamps, and brakes, etc.
350.10	Miscellaneous provisions for snowmobile operation
350.101	Intoxicated Snowmobiling
350.102	Intoxicated Snowmobiling
350.1025	Intoxicated Snowmobiling
350.103	Intoxicated Snowmobiling
350.104	Intoxicated Snowmobiling
350.106	Intoxicated Snowmobiling
350.107	Intoxicated Snowmobiling
350.11	Penalties
350.12	Registration of snowmobiles
350.125	Completion of application for registration by snowmobile dealers
350.15	Accidents and accident reports
350.17	Enforcement
350.19	Liability of landowners

31.045 OPERATION OF CERTAIN VEHICLES ON COUNTY SNOWMOBILE TRAILS.

(1) No four-wheel drive vehicle, passenger car, all-terrain vehicle, truck, motorcycle or other motorized vehicle of any kind other than a snowmobile, as defined herein, shall be permitted to travel on approved county snowmobile trails between December 1 and April 15.

(2) Definitions. (a) "Snowmobile" means any engine-driven vehicle of a type which utilizes sled type runners, or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated, but does not include such vehicles which are either manually propelled or driven by a motor of 4 horsepower or less and operated only on private property.

(b) "All-terrain vehicle" shall include but not be limited to, trail bikes, motorcycles, mini-bikes, air-boats and air-cushioned vehicles or golf carts.

(c) "County approved snowmobile trails" includes all trails or routes that have been so designated by the Brown County Park Director.

(3) Penalties. Any person, firm or corporation violating any of the provisions of this section shall, upon conviction, forfeit not less than \$10 nor more than \$500 for each offense together with the costs of prosecution, and in default of payment of such forfeiture and costs, shall be imprisoned in the County Jail until the same are paid, for a period of time not to exceed 30 days.

31.05 LITTER FROM VEHICLES. (1) The term "solid waste" as used in this section means garbage, refuse, rubbish and all other discarded solid waste material resulting from industrial, commercial, agriculture and demolition operations, but does not include solids or dissolved material in waste water effluent or other common water pollutants.

(2) The term "secured" means held in place on all sides to prevent the blowing, bouncing, leaking, falling or spilling of solid waste.

(3) The operator of every vehicle and trailer transporting solid waste materials within the County shall provide devices necessary to completely secure the solid waste. Tarps are required for materials such as paper and plastic products and other material which, because of size, weight and configuration could blow or bounce off of the vehicle. Tailgates in an upright position, backboards of at least one foot in height, ropes, chains, straps or a combination of these devices is required to completely secure other solid waste materials to prevent blowing, bouncing, leaking, falling or spillage. materials shall not extend above the side, front or back of the cargo carrying portion of the vehicle unless the material is securely fastened to the vehicle.

(4) Paper mill sludge, pulping rejects, and ash are exempt from being covered, but must be loaded such that the material does not pose a nuisance or a hazard. Ash must be loaded and/or treated such that it will not blow off of the vehicle.

(5) Any person who violates this section shall be fined not less than \$10 nor more than \$500 for each offense. For purposes of this section, person is defined to mean either the person operating the vehicle or the person, firm, corporation, partnership, association or municipality who owns the vehicle or trailer in question.

(6) Any vehicle not complying with this paragraph shall be assessed an additional fee as determined and adopted by the Solid Waste Management Board, which fee shall be in addition to any other fees charged for using the County landfill site.

(7) Any additional fee assessed pursuant to sub-section (6) shall be documented, and said documentation shall be filed with the County Solid Waste Director. Any person, firm or corporation which is assessed this additional fee shall have the right to appeal within 30 calendar days of being notified of the additional fee to the Solid Waste Director, who shall render a decision on the appeal within 30 working days of the date he/she receives the appeal. If the person, firm, corporation or municipality being assessed the additional fee is not satisfied with the decision of the Solid Waste Director, then a further appeal can be taken to the Solid Waste Board, within 30 days of receipt of the Solid Waste Director's decision. The decision of the Solid Waste Board shall be final and binding with regard to the assessment of the additional fee.

31.06 TRESPASS TO DWELLINGS. Whoever intentionally enters the dwelling of another without the consent of some person lawfully upon the premises, under circumstances tending to create or provoke a breach of the peace, shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 90 days.

31.07 PETTY THEFT. (1) Whoever intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another, the value of which does not exceed \$500 without the person's consent and with the intent to deprive the owner permanently of possession of such property shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 90 days.

(2) Whoever intentionally fails to return any personal property which is in his/her possession or under his/her control by virtue of a written lease or written rental agreement, within 10 days after the lease or rental agreement has expired, shall be subject to a forfeiture of not more than \$500 together with the cost of prosecution, and in default of the payment of forfeiture and cost of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 90 days.

31.08 DAMAGE TO PROPERTY. Whoever intentionally causes damage to any physical property of another without the person's consent shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days.

31.09 SHOPLIFTING. (1) Whoever intentionally alters indicia or price or value of merchandise or who takes and carries away, transfers, conceals, or retains possession of merchandise held for resale by a merchant without his consent and with intent to deprive the merchant permanently of possession, or the full purchase price of such merchandise, shall be subject to a forfeiture of not more than \$500, together with the cost of prosecution, and in default of the payment of the forfeiture and costs of prosecution shall be imprisoned in the County Jail until such forfeiture and costs are paid, but not to exceed 90 days.

(2) The intentional concealment of unpurchased merchandise which continues from one floor to another or beyond the last station for receiving payments in a merchant's store is evidence of intent to deprive the merchant without paying the purchase price thereof. The discovery of unpurchased merchandise concealed upon the person or among the belongings of such person or concealed by a person upon the person or among the belongings of another is evidence of intentional concealment on the part of the person so concealing such goods.

(3) A merchant or merchant's adult employee who has probable cause for believing that a person has violated this section in his presence may detain such person in a reasonable manner for a reasonable length of time to deliver him to a peace officer, or to his parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he shall not be interrogated or searched against his will before the arrival of a peace officer who may conduct a lawful interrogation of the accused person. Compliance with this subsection entitles the merchant or his employee effecting the detention to the same defense in any action as is available to a peace officer making an arrest in the line of duty.

31.10 RESTRICTIONS ON SALE TO AND POSSESSION BY PERSONS UNDER THE LEGAL DRINKING AGE; PRESENCE OF UNDERAGE PERSONS ON LICENSED PREMISES; AND REGULATION OF UNDERAGE PERSONS. (1) Statutory Authority. This ordinance is enacted pursuant to the authority granted to counties by Sec. 125.10 of the Wisconsin Statutes.

(2) Applicability. This ordinance does not apply within any municipality with an ordinance regulating underage drinking.

(3) Definitions. (a) "Alcohol beverages" means fermented malt beverages and intoxicating liquor.

(b) "Legal drinking age" means 21 years of age.

(4) Sale or Furnishing to Persons Under the Legal Drinking Age. Except as otherwise provided in this section, whoever sells or furnishes alcohol beverages to a person under the legal drinking age not accompanied by a parent, guardian, or adult spouse, shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days. This subsection shall not apply to licensees or employees of licensees under Chapter 66 or 125, Wisconsin Statutes.

Any forfeiture for violation of any section of Wisconsin Statutes adopted in this section 31.10 of this Code shall conform to the forfeiture permitted to be imposed for violation of the comparable state statute including any variations for subsequent offenses and that the state of Wisconsin Deposit Schedule and Uniform Misdemeanor Bail Schedule adopted by the Wisconsin Judicial Conference and as amended from time to time are hereby adopted and by reference made a part of this Code for those violations of Section 31.10

(5) Presence of Underage Persons on Licensed Premises. A person under the legal drinking age not accompanied by a parent, guardian, or adult spouse, who possesses alcohol beverages or who enters, or knowingly attempts to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued, for any purpose except the transaction of business pertaining to the licenses premises with or for the licensee or his or her employee, shall be subject to the sanctions for municipal ordinance violations provided in Section 48.343, Wisconsin Statutes, as well as the motor vehicle operating privilege sanctions provided in Sections 343.30(6), Wisconsin Statutes. An underage person may not be present on such licensed premises other than for the transaction of business, which business may not be amusement or the purchase, receiving or consumption of edibles or beverages or similar activities which normally constitute activities of a customer of the premises. The prohibition for underage persons to be present on licensed premises does not apply to exceptions set forth in Sec. 125.07(3) subparagraphs 1 - 10 of the Wisconsin Statutes.

This section does not prevent a person under the legal drinking age in the employ of a licensee or permittee from possession of alcohol beverages for sale or delivery to customers. Any person who violates the provisions of this section shall upon conviction thereof forfeit not more than \$300 nor less than \$25 and shall pay the costs of prosecution for each such violation.

(6) Possession of Alcohol Beverages by Persons Under the Legal Drinking Age. No person under the legal drinking age not accompanied by his or her parent, guardian or spouse, shall procure, seek to procure, knowingly possess, or consume any alcohol beverages within the County. Any person who violates the provisions of this section shall upon conviction thereof forfeit not more than \$300 nor less than \$25 and shall pay the costs of prosecution for each such violation. If any person fails to pay the forfeiture imposed, the Court may suspend any driver's license or operating privileges pursuant to Section 48.17, Wisconsin Statutes.

(7) Possession of False Identification. No person under the legal drinking age shall knowingly possess identification that has been altered so as to be untrue or inaccurate, nor shall any person under the legal drinking age present as identification, for purposes of procuring or seeking to procure alcohol beverages; a document that is not a true and accurate identification of said persons. Any person who violates the provisions of this section shall upon conviction thereof forfeit not more than \$300 nor less than \$25 and shall pay the costs of

prosecution for each such violation. If any person fails to pay the forfeiture imposed, the Court may suspend any driver's license or operating privileges pursuant to Section 48.17, Wisconsin Statutes.

31.11 FRAUD ON HOTEL, RESTAURANT KEEPER, RECREATIONAL ATTRACTION OR GAS STATION. (1) Whoever does either of the following may be charged:

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

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

(c) Having obtained any transportation service from a taxicab operator, intentionally absconds without paying for the service.

(d) Having obtained gasoline or diesel fuel from a service station, garage, or other place where gasoline or diesel is sold at retail or offered for sale at retail, intentionally absconds without paying for the gasoline or diesel fuel.

(2) Prima Facie Evidence of an intent to defraud is shown by:

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

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

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

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

(e) If a person has obtained a ticket, another means of admission, or any accommodation or service provided by the recreational attraction, his or her failure or refusal to pay a recreational attraction the established charge for the ticket, other means of admission, or accommodation or service provided by the recreational attraction or service provided by the recreational attraction constitutes prima facie evidence of an intent to abscond without payment.

(f) The refusal to pay a taxicab operator the established charge for transportation service provided by the operator constitutes prima facie evidence of an intent to abscond without payment.

(g) The failure or refusal to pay a service station, garage, or other place where gasoline or diesel fuel is sold at retail or offered for sale at retail the established charge for gasoline or diesel fuel provided at the service station, garage, or other place constitutes prima facie evidence of an intent to abscond without payment.

(3) DEFINITIONS: RECREATIONAL ATTRACTION: Means a public accommodation designed for amusement and includes chair lifts or ski resorts, water parks, theaters, entertainment venues, racetracks, swimming pools, trails, golf courses, carnivals, and amusement parks.

31.12 ISSUANCE OF WORTHLESS CHECKS. (1) Whoever issues any check or combination of checks for the payment of money less than \$500, which at the time of issuance he or she intends shall not be paid, shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days.

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

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

(b) Proof that, at the time of issuance, the person did not have sufficient funds or credit with the drawee and that the person failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order; or

(c) Proof that, when presentment was made within a reasonable time, the person did not have sufficient funds or credit with the drawee and the person failed within 5 days after receiving notice of nonpayment or dishonor to pay the check or other order.

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

31.13 TRESPASS TO LAND. (1) Whoever enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days.

(2) A person has received notice from the owner or occupant within the meaning of this section if he has been notified personally, either orally or in writing, or if the land is posted as posting is defined in Section 943.13 (2), Wisconsin Statutes.

31.14 STATE FORFEITURE STATUTES. Any forfeiture for violation of any section of Wisconsin Statutes adopted in this Section 31.14 of this Code shall conform to the forfeiture permitted to be imposed for violation of the comparable state statute including any variations for subsequent offenses and that the State of Wisconsin Deposit Schedule and Uniform Misdemeanor Bail Schedule adopted by the Wisconsin Judicial Conference and as amended from time to time are hereby adopted and by reference made a part of this Code for those violations of Section 31.14.

31.15 UNLAWFUL USE OF TELEPHONE. Whoever does any of the following shall be subject to a forfeiture of not less than \$50 nor more than \$300 for the first offense, and shall be fined more than \$500 for any other offense under this section committed within four (4) years of the first offense together with the costs of prosecution, and in default of the payment of the forfeiture and the costs of prosecution shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 30 days:

(1) With intent to frighten, intimidate, threaten, abuse or harass, makes a telephone call and threatens to inflict injury or physical harm to any person or the property of any person.

(2) With intent to frighten, intimidate, threaten, abuse, harass or offend, telephones another and uses any obscene, lewd or profane language or suggests any lewd or lascivious act.

(3) Makes or causes the telephone of another repeatedly to ring, with intent to harass any person at the called number.

(4) Makes repeated telephone calls, whether or not conversation ensues, with intent solely to harass any person at the called number.

(5) Makes a telephone call, whether or not conversation ensues, without disclosing his or her identity and with intent to abuse, threaten or harass any person at the called number.

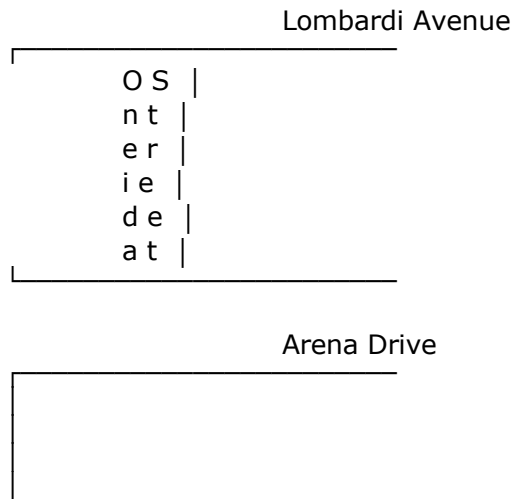
(6) Knowingly permits any telephone under his or her control to be used for any purpose prohibited by this section.

(7) Any persons who intentionally dial the telephone number "911" to report an emergency, knowing that the fact situation which he or she reports does not exist, shall be fined as set forth in this action.

31.16 ALCOHOL BEVERAGES (AS DEFINED IN 31.10) AT THE BROWN COUNTY VETERANS MEMORIAL ARENA AND ITS ENVIRONS. (1) No person shall bring into any part of the Brown County Veterans Memorial Arena any can, bottle or other container containing an alcohol beverage without the written permission of the Manager of the Arena or his/her designee. Ice chests, "coolers" or "jugs" are also prohibited from the Brown County Veterans Memorial Arena unless specific written permission is given by the Arena Director.

(2) No person shall be in possession of any glass, can or other open container containing alcohol beverages on any thoroughfare, street, sidewalk, parking lot or any other public way in the area bounded by the East curb line of South Oneida Street from its intersection with Lombardi Avenue South to the South curb line of Arena Drive, thence East along the South curb line of Arena Drive to a point along said curb line which is the easterly

property line of the property owned by Brown County East of the Arena, thence North along said County property line, to the Northerly boundary of the County property (South edge of Lombardi Ave.), thence Westerly along the South edge of Lombardi Ave. to its intersection with the East curb line of South Oneida Street, said property being pictorially described as follows:



3) Exceptions. At certain specifically designated concession areas where food and snacks are served under concession privileges the sale of alcohol beverages by such concessionaire will be permitted under the strict regulation and control of the Manager of the Arena, or his/her designee. Sales of alcohol beverages by these concessionaires shall be made only in individual drinks (not in original packages or otherwise in bulk) and shall be served for consumption on the immediate premises of the concession.

31.17 SMOKING IN THE BROWN COUNTY VETERANS MEMORIAL ARENA REGULATED. (1) No person shall light a match or other flame producing device or smoke, carry a lighted cigar, cigarette or pipe in the Brown County Veterans Memorial Arena except in areas approved by the Ashwaubenon Building Inspector, provided such areas are free from all inflammable and combustible floors, walls, furniture, fixtures, and decorations. The Arena management, before the beginning of each performance, shall announce from the stage or by projection on a screen that smoking is prohibited by ordinance except in the approved area, if any there be, and further shall erect approved signs as directed by the Ashwaubenon Fire Inspector stating smoking is prohibited by ordinance except in approved areas. Whenever a patron is observed smoking in violation of this section, the operator or employee shall notify such person of the violation.

(2) Exception. This section shall not prohibit the use of a cigar, cigarette or pipe upon the stage of the Arena when used in connection with any performance.

(3) Penalty for violation of this ordinance shall be a forfeiture of not more than \$200.00 for the first offense and no less than \$300.00 for a second violation within 18 months.

31.18 TRUANCY OFFENSES. (1) Definition. (a) "Habitual Truant" means a pupil who is absent from school without a legal excuse for either of the following:

1. Part or all of five (5) or more days out of ten (10) consecutive days on which school is held during a school semester.

2. Part or all of ten (10) or more days on which school is held during a school semester.

(b) "Truancy" means any absence of part or all of one or more days from school during which the school attendance officer, principal or teacher has not been notified of the legal cause of such absence by the parent or legal guardian of the absent pupil.

(2) Habitual Truant. Any child found by the court to be a habitual truant shall be subject to one or more of the following:

(a) Suspension of the child's operating privilege, as defined in Sec. 340.01(49), Wis. Stats., for not less than 30 days nor more than 90 days. (If this penalty is imposed, the court shall immediately take possession of the child's 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 child to participate in counseling, community service or a supervised work program as provided under Sec. 48.24(9), Wis. Stats.

(c) An order for the child to remain at home except during hours in which the child 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 the child to leave his or her home if the child is accompanied by a parent or guardian.)

(3) Contributing to Truancy. (a) Except as provided in sub. (a) any person 18 years of age or older who, by any act or omission, knowingly encourages or contributes to the truancy of a child shall be subject to a forfeiture of not more than \$500, together with the costs of prosecution, and in default of the payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail until said forfeiture and costs are paid, but not to exceed 90 days.

(b) Subsection (a) does not apply to a person who has under his or her control a child who has been sanctioned under Section 49.50(2)(h), Wis. Stats.

(c) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to truant.

31.19 POSSESSION OF MARIJUANA PROHIBITED. (1) Possession Prohibited. The possession of 25 grams or less of marijuana is hereby prohibited.

(2) Definitions. "Marijuana" shall have, for purposes of this section, the same meaning and definition as set forth in the provisions of Sec. 161.01 (14), Stats., with the exception set forth in Sec. 161.41(3r), Stats.

(3) Application. This ordinance does not apply in any city or village within Brown County which has adopted an ordinance prohibiting the possession of marijuana.

(4) Penalty. Any person violating this section shall be subject to a forfeiture in the amount of not less than \$50.00, nor more than \$1000.00.

(5) Defenses. Authorization of possession of marijuana under Sec. 161.32, Stats., or Sec. 161.335, Stats., shall be a defense to any offense alleged hereunder.

31.20 RESTRICTIONS ON SALE OR GIFT OF CIGARETTES OR TOBACCO PRODUCTS. (1) Definitions. In this section:

- (a) "Cigarette" has the meaning given in s. 139.30 (1), Wis. Stats.
- (b) "Distributor" means any of the following:
 - 1. A person specified under s. 139.30 (3), Wis. Stats.
 - 2. A person specified under s. 139.75 (4), Wis. Stats.
- (c) "Identification card" means any of the following:
 - 1. A license containing a photograph issued under ch. 343, Wis. Stats.
 - 2. An identification card issued under s. 343.50, Wis. Stats.
 - 3. An identification card issued under s. 125.08, 1987, Wis. Stats.
- (d) "Jobber" has the meaning given in s. 139.30 (6), Wis. Stats.
- (e) "Manufacturer" means any of the following:
 - 1. A person specified under s. 139.30 (7), Wis. Stats.
 - 2. A person specified under s. 139.75 (5), Wis. Stats.
- (g) "Retailer" means any person licensed under s. 134.65 (1), Wis. Stats.
- (h) "School" has the meaning given in s. 118.257 (1)(c), Wis. Stats.
- (i) "Subjobber" has the meaning given in s. 139.75 (11), Wis. Stats.
- (j) "Tobacco products" has the meaning given in s. 139.75 (12), Wis. Stats.
- (k) "Vending machine" has the meaning given in s. 139.30 (14), Wis. Stats.
- (l) "Vending machine operator" has the meaning given in s. 139.30 (15), Wis. Stats.

(2) Restrictions. (a) No retailer may sell or give cigarettes or tobacco products to any person under the age of 18, except as provided in s. 48.983 (3), Wis. Stats. A vending machine operator is not liable under this paragraph for the purchase of cigarettes 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.

(b) 1. A retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or

tobacco product to a person under the age of 18 is unlawful under this section and s. 48.893, 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 or tobacco product by a person under the age of 18 is unlawful under s. 48.983, Wis. Stats. and that the purchaser is subject to a forfeiture of not to exceed \$25.00.

(c) 1. Except as provided in par. (cm), no retailer may keep a vending machine in any public place that is open to persons under the age of 18 unless all of the following apply:

a. The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employee.

b. The vending machine is in a place where it is inaccessible to the public when the premises are closed.

2. The person who ultimately controls, governs or directs the activities within the premises where the vending machine is located shall ensure that an employee of the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open.

3. Except as provided in sub. 4, a vending machine operator shall remove all of his or her vending machines that are located in any place prohibited by this paragraph by June 1, 1992.

4. Notwithstanding subd. 3, if a written agreement binding on a vending machine operator governs his or her vending machine that is located in any place prohibited by this paragraph, the vending machine operator shall remove the vending machine on the date that the written agreement expires or would be extended or renewed or on May 1, 1993, whichever occurs first.

(cm) 1. Notwithstanding par. (c), no retailer may place a vending machine within 500 feet of a school.

2. Except as provided in subd. 3, a vending machine operator shall remove all of his or her vending machines which are located within 500 feet of a school by September 1, 1989.

3. Notwithstanding subd. 2, if a written agreement binding on a vending machine operator governs the location of his or her vending machine which is located within 500 feet of a school, the vending machine operator shall remove the vending machine on the date that the written agreement expires or would be extended or renewed or on May 1, 1993, whichever occurs first.

(d) No manufacturer, distributor, jobber, subjobber or retailer, or their employees or agents, may provide cigarettes or tobacco products for nominal or no consideration to any person under the age of 18.

(3) Defense of Retailer. Proof of all of the following facts by a retailer who sells cigarettes 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) (c), (cm) or (d) of this ordinance, Sec. 31.18 of the Brown County Code.

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 \$400 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 3. 134.65, Wis. Stats., 139.34, Wis. Stats., 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 10 days, if the court finds that the person committed a violation within 12 months after committing 3 or more violations.

4. The Court shall promptly mail notice of a suspension under subd. 3 of the Wisconsin 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) Brown County adopts this ordinance regulating only that conduct regulated by Sec. 134.66, Wis. Stats., and is intended to strictly conform to Sec. 134.66, Wis. Stats. This ordinance, adopted under Sec. 134.66 (5), Wis. Stats., does not apply within any town, village or city in Brown County that has adopted or adopts an ordinance under this subsection.

(6) Severability. If any portion of this ordinance is held to be invalid, the remaining provisions shall remain in full force and effect.

31.21 DRUG PARAPHERNALIA OFFENSES. (1) The following State Statutes, amended from time to time, which define certain drug paraphernalia offenses against the peace and good order of the State are hereby adopted by reference to define offenses against the peace and good order of Brown County.

- (a) 9.161.571 Definition
- (b) 9.161.572 Determination
- (c) 9.161.573(1) Possession of drug paraphernalia
- (d) 9.161.573(2) Possession of drug paraphernalia by a minor
- (e) 9.161.574(1) Manufacture or delivery of drug paraphernalia
- (f) 9.161.574(2) Delivery or manufacture of drug paraphernalia
- (g) 9.161.575(1) Delivery of drug paraphernalia to a minor
- (h) 9.161.575(2) Delivery of drug paraphernalia to a minor by a minor

(2) Any person who violates any provision of this section shall be subject to a forfeiture of not less than \$50.00, nor more than \$500 for each offense, together with the cost of prosecution, and in default of the payment of forfeiture and/or cost of prosecution, shall be imprisoned in the County jail until such forfeiture and/or costs are paid, but not to exceed 90 days.

31.22 DAYTIME CURFEW. (1) Purpose and Intent. It is the purpose of this ordinance to discourage children of compulsory school age from unauthorized absences and to impose penalties upon those students and also upon their parents or legal guardians. It is the intent of this ordinance to promote the development and welfare of these children by discouraging unauthorized absenteeism and encouraging school attendance. The Brown County Board of Supervisors hereby finds that daytime absence constitutes an increased risk to the public safety, health and welfare of the citizens of Brown County.

(2) Definitions.

(a) "Responsible Adult" shall mean a person 18 years of age or older who has the mental competency to fulfill the duty of protecting and caring for the general welfare of a child and who has a written authorization from that child's parent or legal guardian designating the person as a responsible adult, naming the child involved and designating the time period during which the responsible adult shall have control of the child.

(b) "Subject to Compulsory School Attendance" shall include any child subject to mandatory school attendance under Wisconsin law in the school district of his residence, or any child found in Brown County who would be subject to mandatory attendance if the child were a resident of Brown County.

(3) Offenses.

(a) No child subject to compulsory school attendance shall be at any place within Brown County, except in attendance at school or at the student's place of residence, during the hours when that student is required to be in attendance at either a public or private school as required by law, unless that child has written proof from school authorities excusing him/her from attending school at that particular time, or unless the student is accompanied by a parent, legal guardian or responsible adult selected by the parent or legal guardian who supervises the student.

(b) Parental Violation. Each parent or legal guardian of a student subject to the provisions of this ordinance shall have the duty to prevent that student from violating the provisions of this ordinance and each failure by that parent or guardian to do so is a separate offense.

(4) Affirmative Defenses.

(a) It shall be an affirmative defense to subsection s(3)a. and (3)b. that the student, at the time of the alleged violation, was not required by law to be in attendance at the school attended by the student.

(b) It shall be an affirmative defense to subsection (3)b. that the parent or legal guardian is a petitioner in a currently pending juvenile court proceeding involving the student or such a proceeding in which the judge has retained ongoing supervision or jurisdiction.

(c) It shall be an affirmative defense to subsection (3)a. and (3)b. that if at the time of the alleged violation the student was employed pursuant to a school sponsored program or was the recipient of a work permit issued by school authorities and the student was actually on the job or traveling to or from the job site or program location.

(d) Any party claiming an affirmative defense hereunder shall have the duty to prove the same to the same standard of proof required of the plaintiff in prosecuting the action.

(5) Penalties. A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.

(6) Warning. The first time a child is detained by law enforcement officers for violation of this ordinance, the parent, guardian, or person having legal custody may be advised as to the provisions of this ordinance, and any violation of this ordinance occurring thereafter by said child and parent, guardian, or person having legal custody shall result in a penalty being imposed in sub. (5) above.

(Suggested Warning Format)

Name: _____

The above-named juvenile was found in violation of the Brown County Daytime Curfew Ordinance. As parents or guardians responsible for such conduct and the welfare of this juvenile, you are hereby served this Curfew Violation Notice setting forth the manner in which the law has been violated. The Brown County Daytime Ordinance States:

No Child subject to compulsory school attendance shall be at any place within Brown County, except in attendance at school or at the student's place of residence, during the hours when that student is required to be in attendance at either a public or private school as required by law, unless that child has written proof from school authorities excusing him/her from attending school at that particular time, or unless the student is accompanied by a parent, legal guardian or responsible adult selected by the parent or legal guardian who supervises the student.

Parental Violation. Each parent or legal guardian of a student subject to the provisions of this ordinance shall have the duty to prevent that student from violating the provisions of this ordinance and each failure by that parent or guardian to do so is a separate offense. To knowingly permit such child to again violate the provisions of this ordinance, they shall be fined no more than \$500 for each offense. If a child knowingly violates the provisions of this ordinance, the child shall be fined no more that \$500 for each violation.

31.23 JUVENILE CURFEWS. (1) Legislative Purpose: Pursuant to Section 59.54(6), Wis. Stats., 1995-96, the Brown County Board of Supervisors has determined that there has been an increase in juvenile violence, juvenile gang activity and crime by persons under the age of 18 in Brown County and persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities to be victims of other perpetrators of crime. Brown County has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over the responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities, and a nighttime curfew for those under the age of 17 will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of Brown County.

(2) Definitions. In this Section:

(a) "County" means Brown County, Wisconsin.

(b) "Curfew Hours" means:

1. 10:00 p.m. until 6:00 a.m. the following day, each day of the week.

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

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

(e) "Guardian" means:

1. A person who, under court order, is the guardian of the person or a minor; or

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

(f) "Minor" means any person under 17 years of age.

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

(h) "Parent" means a person who is:

1. A natural parent, adoptive parent, or step-parent to another person; or

2. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(i) "Public Place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

(j) "Remain" means to:

1. Linger or stay; or

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

(k) "Serious Bodily Injury" means any bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(3) Offenses:

(a) A minor commits an offense if he/she remains in any public place or on the premises of any establishment within the County during curfew hours.

(b) A parent or guardian of a minor commits an offense if he/she knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the County during curfew hours.

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

(4) Defenses: It is not an offense under this section (S31.23) if the minor was:

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

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

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

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

(e) Involved in an emergency;

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

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

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

(5) Enforcement. Before taking any enforcement action under this section, a law enforcement officer shall ask the offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred, and that, based on any response and other circumstances, no defense in subsection (4) is present.

(6) Penalties.

(a) A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.

31.26 PURCHASE AND/OR POSSESSION OF TOBACCO PRODUCTS BY MINORS PROHIBITED. This section is adopted pursuant to the authority contained in Section 938.983(5) of the Wisconsin Statutes and shall apply within Brown County except that this section does not apply within any town, village, or city that has adopted an ordinance in conformity with Section 938.983(5) of the Wisconsin Statutes.

(1) The term "tobacco products" has the meaning given in Sec. 139.15 (12) of the Wisconsin Statutes.

(2) The term "cigarette" has the meaning given in Sec. 139.30(1), Stats.

(3) Possession Prohibited. The possession of any cigarette or tobacco products by persons under the age of 18 is hereby prohibited.

(4) Purchasing Prohibited. The purchasing, or attempt to purchase, any cigarette or tobacco products by persons under the age of 18 is hereby prohibited.

(5) False Representations Prohibited. The attempt to purchase any cigarette or tobacco products, or for the purpose of receiving any cigarette or tobacco products, by using means of a false representation as to one's age is hereby prohibited.

(6) Penalty. Any person violating this section shall be subject to a forfeiture of not more than \$50.00.