

Chapter 222

MINORS

[HISTORY: Adopted by the Village Board of the Village of Hustisford 3-28-1994 as Title 11, Ch. 5 of the 1994 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Bicycles and play vehicles — See Ch. 128.

Fireworks — See Ch. 179.

Offenses involving alcoholic beverages — See Ch. 198, Art. II.

Peace and good order — See Ch. 240.

Snowmobiles — See Ch. 268.

§ 222-1. Curfew.

- A. Curfew established. It shall be unlawful for any person under age 18 to be on foot or bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, place of amusement and entertainment, cemetery, playground, public building or any other public place in the Village of Hustisford between the hours of 11:00 p.m. and 6:00 a.m. the next day, unless accompanied by his or her parent or guardian or a person having lawful custody and control of his or her person or unless there exists a reasonable necessity therefor. The fact that said child, unaccompanied by a parent, guardian or other person having legal custody, is found upon any such public place during the aforementioned hours shall be evidence that said child is there unlawfully and that no reasonable excuse exists therefor.¹
- B. Exceptions.
- (1) This section shall not apply to a child:
 - (a) Who is performing an errand as directed by his parent, guardian or person having lawful custody.
 - (b) Who is on his own premises or in the areas immediately adjacent thereto.
 - (c) Whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours.
 - (d) Who is returning home from a supervised school, church or civic function, but not later than 60 minutes after the ending of such function.
 - (2) These exceptions shall not, however, permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the

¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

public streets.

- C. Parental responsibility. It shall be unlawful for any parent, guardian or other person having the lawful care, custody and control of any person under age 18 to allow or permit such person to violate the provisions of Subsection A or B above. The fact that prior to the present offense a parent, guardian or custodian was informed by any law enforcement officer of a separate violation of this section occurring within 30 days of the present offense shall be prima facie evidence that such parent, guardian or custodian allowed or permitted the present violation. Any parent, guardian or custodian herein who shall have made a missing person notification to the Police Department shall not be considered to have allowed or permitted any person under age 18 to violate this section.
- D. Taking a child into custody.
 - (1) Every law enforcement officer while on duty is hereby authorized to take into custody any child violating the provisions of Subsection A above. Children taken into custody shall be released from custody as soon as is reasonably possible. A person taking a child into custody shall make every effort immediately to release the child to the child's parent, guardian, or legal custodian or, if the parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, may release the child to a responsible adult and verbally counsel or warn as may be appropriate or, in the case of a runaway child, may release the child to a home authorized under § 48.227, Wis. Stats. The parent, guardian, legal custodian, or other responsible adult to whom the child is released shall sign a release for the child.
 - (2) If the child is not released under Subsection D(1), the officer shall deliver the child to the County Juvenile Court Intake Worker in a manner determined by the Court and law enforcement agencies, stating in writing with supporting facts the reasons why the child was taken into physical custody and giving any child 12 years of age or older a copy of the statement, in addition to giving a copy to the Intake Worker. A juvenile violating this curfew regularly may be warned by an officer on duty in his discretion and sent home in lieu of taking the juvenile into custody.
 - (3) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, the officer shall take such action as is required under § 48.20(4), Wis. Stats. If the child is believed to be mentally ill, drug dependent, or developmentally disabled and exhibits conduct which constitutes a substantial risk of physical harm to the child or to others, the officer shall take such action as is required under § 48.20(5), Wis. Stats. If the child is believed to be an intoxicated person who has threatened, attempted, or inflicted physical harm on himself or herself or on another and is likely to inflict such physical harm unless committed or is incapacitated by alcohol, the officer shall take such action as is required under § 48.20(6), Wis. Stats.

E. Warning and penalty.

- (1) Warning. The first time a child is taken into custody by a law enforcement officer as provided in Subsection D above, such parent, guardian, or person having legal custody shall be advised as to the provisions of this section and further advised that any violation of this section occurring thereafter by this child or any other child under his or her care or custody shall result in a penalty being imposed as hereinafter provided.
- (2) Penalty. Any parent, guardian, or person having legal custody of a child described in Subsection A above who has been warned in the manner provided in Subsection E(1) herein and who thereafter violates this section shall be subject to a penalty as provided in Chapter 1, § 1-3 of this Code. After a second violation within a six-month period, if the defendant, in a prosecution under this section, proves that he or she is unable to comply with this section because of the disobedience of the child, the action shall be dismissed and the child shall be referred to the court assigned to exercise jurisdiction under Ch. 48, Wis. Stats. Any minor person under 16 years of age who shall violate this section shall, upon conviction thereof, forfeit not less than \$25 nor more than \$250, together with the costs of prosecution.²

§ 222-2. Possession of controlled substances.

It shall be unlawful for any person under the age of 18 to possess a controlled substance contrary to the Uniform Controlled Substances Act, Ch. 961, Wis. Stats.

§ 222-3. Petty theft.

It shall be unlawful for any person under the age of 18, with intent, to steal or take property from the person or presence of the owner without the owner's consent and with the intent to deprive the owner of the use thereof.

§ 222-4. Receiving stolen goods.

It shall be unlawful for a person under the age of 18 to intentionally receive or conceal property he knows to be stolen.

§ 222-5. Village jurisdiction over minors.

- A. Adoption of state statute. Section 938.17(2), Wis. Stats., is hereby adopted and by reference made a part of this section as if fully set forth herein.
- B. Provisions of Code applicable to persons 12 through 17 years of age. Subject to the provisions and limitations of § 938.17(2), Wis. Stats., complaints alleging a violation of any provision of this Code against persons 12 through 17 years of age may be brought on behalf of the Village of Hustisford and may be prosecuted utilizing the same procedures in such cases as are applicable to adults charged with

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

the same offense.

- C. No incarceration as penalty. The court shall not impose incarceration as a penalty for any person convicted of an offense prosecuted under this section.
- D. Additional prohibited acts. In addition to any other provision of the Village of Hustisford Code, no person age 12 through 17 shall own, possess, ingest, buy, sell, trade, use as a beverage, give away or otherwise control any intoxicating liquor or fermented malt beverage in violation of Ch. 125, Wis. Stats.³
- E. Penalties. Any person 12 through 17 years of age who shall violate the provisions of Subsection D shall be subject to the same penalties as are provided in Chapter 1, § 1-3 of this Code, exclusive of the provisions therein relative to commitment in the county jail.

§ 222-6. Drug paraphernalia. ⁴

- A. In this section, "drug paraphernalia" shall be defined as provided in § 961.571, Wis. Stats.
- B. Sections 961.572 through 961.576, Wis. Stats., are adopted by reference and incorporated in this section and shall apply to the possession, manufacture and delivery of drug paraphernalia by a minor.
- C. Any person who violates this section shall, upon conviction, be subject to disposition under § 938.344, Wis. Stats.

§ 222-7. Truancy.

- A. Contributing to truancy.
 - (1) Except as provided in Subsection A(2) below, any person 18 years of age or older who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in Subsection A(4), of a child shall be subject to a forfeiture pursuant to Chapter 1, § 1-3 of this Code.
 - (2) Subsection A(1) above does not apply to a person who has under his or her control a child who has been sanctioned under § 49.26(1)(h), Wis. Stats.
 - (3) 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 be a truant.
 - (4) "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 guardian of the

3. Editor's Note: See also Ch. 198, Intoxicating Liquor and Fermented Malt Beverages.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

absent pupil and also means intermittent attendance carried on for the purpose of defeating the intent of § 118.15, Wis. Stats.

- B. Parent or guardian liability for truancy.
- (1) Unless the child is excepted or excused under § 118.15, Wis. Stats., or has graduated from high school, any person having under control a child who is between the ages of six and 18 years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes 18 years of age.
 - (2) A person found to have violated Subsection B(1) above, after evidence is provided by a school official that the activities under § 118.16(5), Wis. Stats., have been completed, shall be subject to a forfeiture pursuant to Chapter 1, § 1-3 of this Code.
 - (3) Subsection B(2) above does not apply to a person who has under his or her control a child who has been sanctioned under § 49.26(1)(h), Wis. Stats., nor does it apply if the person proves that he or she is unable to comply with Subsection B(1) because of the disobedience of the child.

§ 222-8. Unlawful sheltering of minors.

- A. No person shall intentionally shelter or conceal a minor child who:
- (1) Is a runaway child, meaning a child who has run away from his or her parent, guardian or legal or physical custodian; or
 - (2) Is a child who may be taken into custody pursuant to § 48.19, Wis. Stats.
- B. Subsection A applies when the following conditions are present:
- (1) The person knows or should have known that the child is a child described in Subsection A(1) or (2); and
 - (2) The child has been reported to a law enforcement agency as a missing person or as a child described in Subsection A(1) or (2).
- C. Subsection A does not apply to any of the following:
- (1) A person operating a runaway home in compliance with § 48.227, Wis. Stats.;
 - (2) A person who shelters or conceals a child at the request or with the consent of the child's parent, guardian or legal or physical custodian, except if the sheltering or concealment violates § 948.31; or
 - (3) A person who immediately notifies a law enforcement agency, county department of public welfare or social services, or the intake worker of the court exercising jurisdiction under Ch. 48, Wis. Stats., that he or she is sheltering or concealing such child and provides the person or agency notified

with all information requested.

§ 222-9. Purchase or possession of tobacco products.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

CIGARETTE — Any roll of tobacco wrapped in paper or any substance other than tobacco.

LAW ENFORCEMENT OFFICER — Any person employed by the state or any political subdivision of the state for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he is employed to enforce.

TOBACCO PRODUCTS — Cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clipping, cuttings and sweeping of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but "tobacco products" does not include cigarettes, as defined above.

B. Prohibitions. Except as provided in Subsection C, no person who is less than 18 years of age may do any of the following:

- (1) Buy or attempt to buy any cigarette or tobacco product.
- (2) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product.
- (3) Possess any cigarette or tobacco product.

C. Exceptions. A child may purchase or possess cigarettes or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under § 134.65(1), Wis. Stats.

D. Seizure. A law enforcement officer shall seize any cigarette or tobacco product involved in any violation of Subsection B committed in his or her presence.

§ 222-10. Violations and penalties.⁵

A. Citation process. For violations of §§ 222-2 through 222-9, juveniles may be cited by the citation process on a form approved by the Village Attorney which shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A carbon copy will be mailed to the parent or legal guardian.

B. Penalties. Violations of §§ 222-2 through 222-9 by a person under the age of 18

5. Editor's Note: See also Ch. 240, Peace and Good Order, § 240-2.

shall be punishable according to §§ 938.17(2), 938.343, 938.344 and 938.345, Wis. Stats. Nothing in this section shall prevent the juvenile officer, in his discretion, from referring cases directly to the District Attorney's office.