

## Title 11 ► Chapter 2

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# Offenses Against Public Safety and Peace

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### Sec. 11-2-1 Regulations of Firearms, Explosives, and Other Missiles.

- (a) **Discharge of Firearms Regulated.** No person, except a law enforcement officer in the performance of an official duty, shall fire or discharge a firearm, rifle, spring gun, air gun or pneumatic pellet gun of any description in his/her possession or under his/her control within the Village of Merrilan, unless it is unloaded and lawfully enclosed in a proper carrying case, provided that this Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries authorized by the Village Board, or the firing or discharging of BB guns upon private premises by persons over sixteen (16) or under the direct personal supervision of a parent or guardian.
- (b) **Hunting Prohibited.** Hunting within the Village of Merrilan is prohibited.
- (c) **Shooting Into Village Limits.** No person shall in the territory adjacent to the Village discharge any firearm in such manner that the discharge shall enter or fall within the Village of Merrilan.

- (d) **Shooting Ranges.** This Section shall not prevent the maintenance and use of duly supervised rifle or pistol ranges or shooting galleries approved by the Village Board, upon the recommendation of the Village Marshal, where proper safety precautions are taken.
- (e) **Explosive Devices.** No person shall discharge or detonate any dynamite, nitroglycerin or other explosives within the Village without first obtaining a permit to do so from the Village Board.
- (f) **Throwing or Shooting of Arrows, Stones or Other Missiles Prohibited**
  - (1) It shall be unlawful for any person to discharge or cause the discharge of any dangerous missile from any slingshot, bow and arrow or other means within three hundred (300) feet of any inhabited dwelling or building or any public park, square or enclosure.
  - (2) This Subsection shall not apply:
    - a. To the shooting or discharge of toy arrows or arrows which have a tip made of rubber or similar material.
    - b. To a supervised archery range approved by the Village Board.
    - c. Within the interior of a single family dwelling.
- (g) **Definitions.** For the purpose of the Section, a firearm is defined as any instrumentality from or with which a shot, bullet or pellet may be discharged or expelled, regardless of whether the propelling force is provided by air, spring or other similar mechanical devices, or gun powder.

## **Sec. 11-2-2 Carrying Concealed Weapons Prohibited; Certain Weapons Prohibited**

- (a) **Concealed Weapons Prohibited**
  - (1) **Prohibition.** No person shall, within the Village of Merrilan, wear or in any manner carry under his/her clothes or conceal upon or about his/her person any deadly or dangerous weapon, provided this Subsection shall not apply to a peace officer or such persons as may be authorized to carry such weapons.
  - (2) **Dangerous Weapons Defined.** "Dangerous weapon" means any firearm, whether loaded or unlocked, or any device designed as a weapon and capable of producing death or great bodily harm, or any other device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.
- (b) **Weapons in Public Establishments.** No person shall carry or be possessed of a dangerous weapon in any public building or business establishment open to the public except a bona fide weapons repair, display, or sales establishment unless such dangerous weapon is so stored and secured (other than on the person) so as not to be readily accessible to any person or patron, This Subsection shall not apply to peace officers or other duly authorized by law acting within the scope of their duties. This Subsection shall

not be construed to prohibit the sale, purchase, repair or trade of firearms by a retail business establishment doing so in the course of its regular business in accord with state and federal law, nor to hinder a prospective customer from attempting to buy, sell, or trade firearms to or from a retailer.

(c) **Specific Concealed Weapons Prohibited.**

- (1) No person, except a sheriff, constable, police officer or other law enforcement officer acting within the scope of his/her duties, shall carry or wear concealed about his/her person any pistol, revolver, firearm, sling shot, crossknuckle of lead, brass or other materials, bowie knife, switchblade, dirk or dagger or any other dangerous or deadly weapon within the Village.
- (2) Any weapon involved in an offense under this Subsection above, may be seized and may be forwarded, within forty-eight (48) hours of seizure, to the Crime Laboratory, Division of the Wisconsin Department of Justice for examination. After examination by the Crime Laboratory, the weapon shall be returned to the Village of Merrilan. If the weapon is owned by a person convicted under this Subsection, it may be confiscated by the Village of Merrilan. If it is owned by a person other than the person convicted, the trial judge may decide whether such weapon shall be returned to its rightful owner or confiscated by the Village of Merrilan.

(d) **Possession, Sale, and Manufacture of Certain Weapons Prohibited.**

- (1) No person shall sell, manufacture, purchase, possess or carry metallic knuckles or knuckles of any substance which could be put to the same use with the same or similar effect as metallic knuckles, a "numchuk" (also called a "nunchaku") or any similar weapon, a "cestus" or similar material weighted with metal or other substance and worn on the hand, a "churkin" (also called a "suriken") or any similar object intended to injure a person when thrown, a "suchbai" or similar weapon, a "manrikigusari" or a similar length of chain having weighted ends, or any other martial arts device or instrumentality which, in the manner it is used or intended to be used, is calculated or likely to produce injury or death to another person within the Village of Merrilan.
- (2) For the purpose of this Section, the following definitions shall apply:
  - a. "**Numchuk**" or "**Nunchaku**." An instrument consisting of two (2) or more sticks, clubs, or rods connected by a rope, cord, wire, or chain.
  - b. "**Churkin**." A round throwing knife consisting of several sharp points protruding from a rounded disc.
  - c. "**Suchbai**." 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 may or may not have spikes or short pointed protrusions from either end.
- (3) Any such device shall be seized by a law enforcement officer and destroyed or turned over to the State of Wisconsin Crime Laboratory for destruction.

(e) **Reckless Use of Weapons.**

(1) **Acts Prohibited.**

- a. No person shall endanger another's safety by reckless conduct in the operation or handling of a firearm, air gun, knife or bow and arrow.
- b. No person shall operate or go armed with a firearm, air gun, knife or bow and arrow while he/she is under the influence of an intoxicant.
- c. No person shall intentionally point a firearm, air gun, knife or bow and arrow at or toward another person.

(2) **Reckless Conduct Defined.** "Reckless conduct" consists of an act which creates a situation of unreasonable risk and high probability of death or great bodily harm to another and which demonstrates a conscious disregard for the safety of another and a willingness to take chances of perpetrating an injury.

**Sec. 11-2-3 Safe Use and Transportation of Firearms and Bows.**

(a) **Definitions.** In this Section:

- (1) **Aircraft** has the meaning given under Sec. 114.002(3), Wis. Stats.
- (2) **Encased** means enclosed in a case that is expressly made for the purpose of containing a firearm and that is completely zipped, snapped, buckled, tied or otherwise fastened with no part of the firearm exposed.
- (3) **Firearm** means a weapon that acts by force of gunpowder.
- (4) **Highway** has the meaning given under Sec. 340.01(22), Wis. Stats.
- (5) **Motorboat** has the meaning given under Sec. 30.50(6), Wis. Stats.
- (6) **Roadway** has the meaning given under Sec. 340.01(54), Wis. Stats.
- (7) **Unloaded** means any of the following:
  - a. Having no shell or cartridge in the chamber of a firearm or in the magazine attached to a firearm.
  - b. In the case of a cap lock muzzle-loading firearm, having the cap removed.
  - c. In the case of a flint lock muzzle-loading firearm, having the flashpan cleaned of powder.
- (8) **Vehicle** has the meaning given under Sec. 340.01(74), Wis. Stats., and includes a snowmobile, as defined under Sec. 340.01(58a), Wis. Stats.

(b) **Prohibitions; Motorboats and Vehicles; Highways and Roadways.**

- (1) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a motorboat with the motor running, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.
- (2) Except as provided in Subsection (c), no person may place, possess or transport a firearm, bow or crossbow in or on a vehicle, unless the firearm is unloaded or unless the bow or crossbow is unstrung or is enclosed in a carrying case.

- (3) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow in or from a vehicle.
  - (4) Except as provided in Subsection (c), no person may load or discharge a firearm or shoot a bolt or an arrow from a bow or crossbow from or across a highway or within fifty (50) feet from the center of a road.
  - (5) A person who violates Subsections (b)(1) through (4) above is subject to a forfeiture pursuant to Section 1-1-6.
- (c) **Exceptions.**
- (1) Subsection (b) does not apply to any of the following who, in the line of duty, place, possess, transport, load or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm in, on or from a vehicle, motorboat or aircraft or discharge a firearm from or across a highway or within fifty (50) feet of the center of a roadway:
    - a. A peace officer, as defined under Sec. 939.22(22), Wis. Stats.
    - b. A member of the U.S. armed forces.
    - c. A member of the National Guard.
  - (2) Subsections (b)(1), (2) and (3) do not apply to the holder of a scientific collector permit under Sec. 29.17, Wis. Stats., who is using a net gun or tranquilizer gun in an activity related to the purpose for which the permit was issued.
  - (3) Subsections (b)(2) and (3) do not apply to the holder of a permit under Sec. 29.09, Wis. Stats., who is hunting from a standing automobile in accordance with that Subsection.

#### **Sec. 11-2-4 Sale and Discharge of Fireworks Restricted.**

No person shall sell, expose or offer for sale, use, keep, possess, discharge or explode any fireworks except toy pistol paper caps, sparklers and toy snakes within the limits of the Village unless he/she shall be authorized by a fireworks permit as provided in Title 7, Chapter 6, of this Code of Ordinances. The term "fireworks" as used in this Section shall be defined as provided in Sec. 167.10(1), Wis. Stats., and shall be deemed to include all fireworks, rockets or similar missiles containing explosive fuel.

*State Law Reference:* Sec. 167.10, Wis. Stats.

#### **Sec. 11-2-5 Obstructing Streets and Sidewalks Prohibited.**

- (a) **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 Village of Merrilan in such a manner as to:

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- (1) Prevent or obstruct the free passage of pedestrian or vehicular traffic thereon;
  - (2) Prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place; or
  - (3) Cause a nuisance by congregating and hindering the free passage of pedestrian or vehicular traffic.
- (b) **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.
- (c) **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 for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Merrilan.
  - (3) **Obstruct.** To interfere with unobstructed travel by any means, including but not limited to standing on the part of the walk that is fit for travel, or placing any object or vehicle whatsoever on such sidewalk.
  - (4) **Sidewalk.** Any sidewalk owned or maintained by the Village. The term shall not include sidewalks or walkways on private property in shopping centers, apartment complexes, office building sites or any other private property.
- (d) **Free Speech.** This Section shall not be interpreted as prohibiting any person from stopping on any sidewalk to talk or to make a speech, provided that such person shall not stand in such a location that it is impossible for any pedestrian to travel along the sidewalk without leaving the sidewalk and walking on adjacent property or on the street. If two (2) or more persons are engaged in talking while stopped on a sidewalk, they shall not stand in such locations as to completely prevent any pedestrian from passing them on the sidewalk.

**Sec. 11-2-6 Loitering Prohibited.**

- (a) **Public Property Loitering Prohibited.**
- (1) No person shall loiter in or about any public street, public sidewalk, street crossing, alley, bridge, public parking lot or other place of assembly or public use after being requested to move by any law enforcement officer.
  - (2) Upon being requested to move, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
  - (3) No person shall loiter in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious conduct or any unlawful act.

- (4) No person shall loiter in or about any school or public place at or near which children or students attend or normally congregate. As used in this Subsection, "loiter" means to delay, to linger or to idle in or about any said school or public place without a lawful purpose for being present.

(b) **Private Property Loitering Prohibited.**

- (1) No person shall loiter in or about any private premises or adjacent doorways or entrances or upon private property held out for public use, including, but not limited to, business or industry parking lots or shopping malls without invitation from the owner or occupant or by any person in authority at such places. No person shall loiter in or about the doorway, stairway, steps or entrance of any business place of private residence without the expressed consent of the owner thereof, or at any time other than usual business hours. Under this Subsection, business place shall include public building at such times that the same shall be closed for the usual and normal business conduct thereat.
- (2) Upon being requested to move by any such person in authority or by any police officer, a person shall immediately comply with such request by leaving the premises or area thereof at the time of the request.
- (3) No person shall sit, lie, or otherwise recline upon or against any parked motor vehicle without the expressed consent of the owner thereof, whether such be parked upon a public street, alley, parking lot, driveway or private premises.
- (4) No person shall stand or loiter on any roadway other than in a safety zone if such act interferes with the lawful movement of traffic.

(c) **Loitering or Prowling Prohibited.**

- (1) No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a police or peace officer, refuses to identify himself/herself or manifestly endeavors to conceal himself/herself or any object. Unless flight by the person or other circumstances makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this Section, afford the person an opportunity to dispel any alarm which would otherwise be warranted, by requesting him/her to identify himself/herself and explain his/her presence and conduct. No person shall be convicted of an offense under this Subsection if the law enforcement did not comply with the preceding sentence, or if it appears at trial that the explanation given by the person was true and, if believed by the law enforcement officer at the time, would have dispelled the alarm.
- (2) No person shall hide, wait or otherwise loiter in the vicinity of any private dwelling house, apartment building, or any other place of residence with the unlawful intent to watch, gaze or look upon the occupants therein in a clandestine manner.

- (3) No person shall lodge in any building, structure or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.
  - (4) No person shall loiter in or about a restaurant, tavern or other public building. As used in this Subsection, "loiter" means to, without just cause, remain in a restaurant, tavern or public building or to remain upon the property immediately adjacent thereto after being asked to leave by the owner or person entitled to possession or in control thereof.
- (d) **Loitering by Underage Persons Where Alcohol Beverage is Dispensed.**
- (1) **Underage Persons and Intoxicants.** No underage person shall enter, remain or loiter in any public or private place where any fermented malt beverage or other alcohol beverage is sold, dispensed, given away or made available, unless accompanied by a parent, legal guardian or spouse who has attained the legal drinking age.
  - (2) **Permitting Loitering Prohibited.** No person of legal drinking age shall permit any underage person to enter, remain or loiter in any premises, public or private, where fermented malt beverages or other alcohol beverages are served, sold, dispensed, given away or made available, unless such underage person is accompanied by a parent, legal guardian or spouse who has attained the legal drinking age.
- (e) **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 for no obvious reason.
  - (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Merrilan.
- (f) **Soliciting.** No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested: that such person is a known prostitute or panderer, that such person repeatedly beckons to stop or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or produce another to commit an act of prostitution. No arrest shall be made for a violation of this Subsection unless the law enforcement officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this Subsection if it appears at trial that the explanation given was true and disclosed a lawful purpose. As used in this Subsection:
- (1) **Public Place** is an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles, whether



moving or not, and building open to the general public, including those which serve food or drink or provide entertainment, and the doorway and entrance to buildings or dwellings and the grounds enclosing them.

- (2) **Known Prostitute or Panderer** means a person who, within five (5) years previous to the date of arrest for violation of this Section, had, within the knowledge of the sworn police officer, been convicted in any municipal court or circuit court in the State of Wisconsin of an offense involving prostitution.

## Sec. 11-2-7 Loud and Unnecessary Noise Prohibited

- (a) **Loud and Unnecessary Noise Prohibited.** It shall be unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It shall be unlawful for any person to knowingly or wantonly to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- (b) **Types of Loud and Unnecessary Noises.** The following acts are declared to be loud, disturbing and unnecessary noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:
- (1) **Horns, signaling devices** The sound of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sounds by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time; the use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust and the use of any signaling device when traffic is for any reason held up.
  - (2) **Radios, phonographs, similar devices.** The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument phonograph or other machine or device for the production or reproducing of sound in a loud and unnecessary manner. The operating of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7 a.m. on Sunday through Thursday, and between the hours of 11:00 p.m. and 7:00 a.m. on Friday and Saturday, in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of the Section.\*
  - (3) **Loudspeakers, amplifiers for advertising.** The using, operating or permitting to be played, used or operated if any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon public streets for the purpose of

commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.

- (4) **Animals, birds.** The keeping of any animal or bird which causes frequent or long continued unnecessary noise.
  - (5) **Steam whistles.** The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of proper Village authorities.
  - (6) **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat except through a muffle or other device which will effectively prevent loud or explosive noises therefrom.
  - (7) **Construction or repair of buildings.** The erection (including excavation), demolition, alteration or repair of any building, as well as the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or any other similar equipment attended by loud or unusual noise, other than between the hours of 7:00 a.m. and 10:00 p.m. on weekdays; provided, however, the Village President or Chief of Police shall have the authority, upon determining that the loss of inconvenience which would result to any party in interest would be extraordinary and of such nature as to warrant special consideration, to grant a permit for a period necessary within which time such work and operation may take place within the hours of 10:00 p.m. to 7:00 a.m.
  - (8) **Schools, courts, churches, hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while in use, or adjacent to any hospital, which unreasonably interferes with the normal operation of that institution, or which disturbs or unduly annoys patients in the hospital provided that conspicuous signs are displayed in those streets indicating a school, hospital or court street. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order and operation of such school session or class thereof.
  - (9) **Exceptions.** The provisions of this Section shall not apply to:
    - a. Any vehicle of the Village while engaged in necessary public business.
    - b. Excavations or repairs of streets or other public construction by or on behalf of the Village, County, or State at night when public welfare and convenience renders it impossible to perform such work during the day.
    - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
- (c) **Permits for Amplifying Devices.**
- (1) **Permit Required.** The use of loudspeakers or amplifying devices on the streets or in the parks of the Village of Merrilan is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Village Marshal.

- (2) **Grounds or Reasons for Denial or Allowance.** The Village Board, Clerk-Treasurer or Chief of Police shall have the authority to revoke such permit if it is believed such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method un which it is being used or the location in which it is being operated.
- (3) **Time Restrictions.** The Chief of Police shall not grant a permit to use a loudspeaker or amplifying device <sup>before</sup> the hours of 10:00 p.m. and 7 a.m. on Sunday through Thursday, and between the hours of 11:00 p.m. and 7:00 a.m. on Friday and Saturday. No permit shall be granted to anyone who, in the opinion of The Chief of Police uses said loudspeaker or amplifying device in such a manner or such a purpose as to constitute a nuisance.\*

### Sec. 11-2-8 Disorderly Conduct.

- (a) **Disorderly Conduct Prohibited.** No person within the Village of Merrilan shall:
- (1) In any public or private place engage in violent, noisy, riotous, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to annoy or disturb any other person;
  - (2) Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation;
  - (3) With intent to annoy another, make a telephone call, whether or not conversations ensues;
  - (4) Indecently exposes his or her person;
  - (5) Be in any business or private structure, private vehicle or upon any private
- (b) **Defecating or Urinating on Public Places.** It shall be unlawful for any person to defecate or urinate outside if designed sanitary facilities, upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public are within the Village, or upon any private property in open view of the public, or in the halls, rooms without restroom facilities, stairway or elevators of public or commercial buildings, or to indecently expose his person.
- (c) **Misuse of Statewide Emergency Service Number "E911" is Prohibited.** Any person who intentionally dials the telephone number "911" to report an emergency, knowing that the fact situation which he or she reports does not exist, shall pay a forfeiture of not less than \$50 nor more than \$300.

### Sec. 11-2-9 Unauthorized Presence on School Property

- (a) **Unauthorized Presence**
- (1) No student who is under suspension, expulsion, or other disciplinary procedures excluding him/her from attending any school located within the Village or any person not a student presently enrolled or not an employee of such schools or not a parent or guardian of a student, or not an otherwise "authorized person,;" shall be present within any school building or upon any school ground with having first secured

authorization to be there from the principal or other person in charge of the school building or school grounds, except while in direct route to secure such authorization.

- (2) Any unauthorized person who shall come upon school property and refuses to leave upon request by the school principal or any person acting under the direction of the school principal, in addition to violating Subsection (a)(1), shall be guilty of trespass.
- (3) "Authorized person" shall include:
  - a. Any person who is present at any school building or school grounds for the purpose previously authorized by the school or their designee;
  - b. Any person transporting a student and who utilizes the driveway specified for loading and unloading personnel;
  - c. Any person utilizing a designated area for attending an athletic or other organized school event.

**(b) Disorderly Conduct on Public School Property.**

- (1) No person shall, on any school property or building, engage in violent, abusive, loud or otherwise disorderly conduct which causes or provokes an immediate disturbance of public order or disturbs or annoys any other person; nor shall a person intentionally engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.
- (2) Non-students, students from schools other than the school on the property or students from a school who are not in compliance with the School System's published rules and regulations shall be considered in violation of this Section. The published rules and regulations of the School System are incorporated as if fully set forth herein.
- (3) All entrances to the school buildings referred to in Subsection (a) shall be posted by the School Board with a notice stating "Entry Into School Building by Unauthorized Person Prohibited."
- (4) "Unauthorized presence" shall include any vehicle that is found on school property which has not received permission to be there. If the occupants or owners are not on school property for some legitimate business or activity or are parked in an area that regulates parking to certain authorized vehicles, they are in violation. Such vehicle may be issued a Village summons that regulates parking or may be towed away at the direction of the school principal or person in charge of such school building. Law enforcement officers may also have any vehicle towed away which, because of its location, creates a hazard to life or property.

**(c) Loitering Near School Prohibited.** No person not in official attendance or on official school business shall enter into, congregate, loiter or cause a nuisance in any school building in the Village of Merrilan or upon any School District grounds or within adjacent posted school zones on any day when such schools are in session.

**(d) Possession of Intoxicating Liquor and Fermented Malt Beverages.** No person shall possess intoxicating liquor or fermented malt beverages while on any school property.

**(e) 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 for no obvious reason.
- (2) **Nuisance.** Unnecessary conduct which may tend to annoy, intimidate, threaten or otherwise disturb another in or about any public street, sidewalk, bridge or public ground which is offensive to the public morals or decency of the citizens of the Village of Merrilan.

### **Sec. 11-2-10 Failure to Obey Lawful Order; Resisting/Obstructing an Officer.**

- (a) **Lawful Orders.** It shall be unlawful for any person to fail to obey the direction or order of a law enforcement officer while such law enforcement officer is acting in an official capacity in carrying out his or her duties.
- (b) **Resisting or Interfering with Officer Prohibited.** It shall be unlawful for any person to resist or in any way interfere with any law enforcement officer or any person called to assist such officer, or to threaten, resist or interfere with such officer or person or to advise or encourage any other person to resist or interfere with such officer or person in the discharge of his/her duty, or to in any way interfere with or hinder or prevent him/her from discharging his/her duty as such officer or assistant, or to offer or endeavor to do so, or to in any manner assist any person in the custody of any law enforcement officer to escape or to attempt to escape from such custody, or to try to persuade any person to escape from the custody of such officer, or to rescue or attempt to rescue any person so in custody or to fail to obey the order or direction of such officer while such officer is acting in his/her official capacity in carrying out his/her duties.
- (c) **Obstructing an Officer Prohibited.** It shall be unlawful for any person to obstruct or lie to a law enforcement officer acting in his/her official capacity. Obstructing an officer is defined in Wis. Stats. 946-41(2)(a) "Obstructs" includes without limitation knowingly giving false information to the officer or knowingly placing physical evidence with the intent to mislead the officer in the performance of his or her duty including the service of any summons or civil process.

### **Sec. 11-2-11 Possession of Controlled Substances; Marijuana.**

- (a) **Definition of Adult.** *Adult* means a person who is eighteen (18) years of age or older, except that for purposes of prosecuting a person who is alleged to have violated any civil law or municipal ordinance, "adult" means a person who has attained seventeen (17) years of age.
- (b) **Definitions:**

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

- (1) Kits used, intended for use, or designed for use, in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits used, intended for use, or designed for use, in manufacturing, selling, distributing, delivering, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices used, intended for use, or designed for use, in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used, intended for use, or designed for use, in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.
- (5) Scales and balances used, intended for use, or designed for use, in weighing or measuring controlled substances.
- (6) Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.
- (7) Separation gins and sifters used, intended for use, or designed for use, in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use, in compounding controlled substances.
- (9) Capsules, balloons, envelopes, or other containers used, intended for use, or designed for use, in packaging small quantities of controlled substances.
- (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
- (11) Hypodermic syringes, needles, or other objects used, intended for use, or designed for use, in parenterally injecting controlled substances into the human body.
- (12) Objects used, intended for use, or designed for use, in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil, into the human body, including but not limited to:
  - a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
  - b. Water pipes
  - c. Carburetion tubes and devices
  - d. Smoking and carburetion masks
  - e. Objects used to hold burning material such as a marijuana cigarette, that has become too small or too short to be held in the hand
  - f. Miniature cocaine spoons and cocaine vials
  - g. Chamber pipes, Carburetor pipes, Electric pipes
  - h. Air-driven pipes, Chillums Bongs
  - i. Ice pipes or chillers.

(c) **Determination of Drug Paraphernalia.** In determining whether an object is drug paraphernalia, the following shall be considered, without limitation of such other considerations a court may deem relevant:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) Prior convictions, if any, of an owner or of anyone in control of the object, under any city, state or federal law relating to any controlled substance.
- (3) The proximity of the object in time and space to a direct violation of this Section.
- (4) The proximity of the object to controlled substances-
- (5) The existence of any residue of controlled substance on the object.
- (6) Direct or circumstantial evidence of the intent of the owner, or of anyone in

control of the object, to deliver it to persons whom the person knows, or should reasonably know, intend to use the object to facilitate a violation of this Section. The innocence of an owner, or of anyone in control of this object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(7) Oral or written instructions provided with the object concerning its use.

(8) Descriptive materials accompanying the object which explain or depict its use.

(9) National and local advertising concerning its use.

(10) The manner in which the object is displayed for sale.

(11) Direct or circumstantial evidence of the ratio of sales of the object to the total sale of the business enterprise.

(12) The existence and scope of legitimate uses for the object in the community;

(13) Expert testimony concerning its use.

(d) **Possession of Controlled Substances.**

(1) It is unlawful for any person to possess a controlled substance, other than a controlled substance classified in schedule I and II under Chapter 961, Wis. Stats., which is a narcotic drug, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his/her professional practice, or except as otherwise authorized by this Code of Ordinances.

(2) For purposes of this Section, "practitioner" means:

(a). A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

(b). A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in the State of Wisconsin.

(e) **Possession of Marijuana.**

(1) No person shall possess twenty-five (25) grams or less of marijuana, as defined in Sec. 961.01, Wis. Stats., unless it was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by Chapter 961, Wis. Stats.

(2) This Section does not apply to any person who is charged with possession of more than twenty-five (25) grams of marijuana, or who is charged with possession of any amount of marijuana following a conviction for possession of any amount of marijuana, in the State of Wisconsin.

(f) **Possession of Drug Paraphernalia.**

(1) No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.

(g) **Manufacture or Delivery of Drug Paraphernalia.**

(1) No person may deliver, or possess with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of this Subsection.

(2) Exemption. This Section does not apply to manufacturers, practitioners, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ch. 961, Wis. Stats. This Section does not prohibit the possession, manufacture or use of hypodermics, in accordance with Ch. 961, Wis. Stats.

**Sec. 11-2-12 Crossing a Police Line.**

No individual shall cross a police or fire line that has been so designated by banner, signs or other similar identification.

**Sec. 11-2-13 Harassment.**

(a) **Harassment.** No person, with intent to harass or intimidate another person, shall do any of the following; each instance shall be considered a separate violation:

(1) Strike, shove, kick or otherwise subject the person to physical contact or attempts or threatens to do the same.

(2) Engage in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose.

(b) **Harassing or Obscene Telephone Calls.** Whoever commits any of the following acts shall be subject to the general penalty as provided in this Code of Ordinances:

(1) Makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious or indecent;

(2) Makes a telephone call, whether or not conversation ensues, with the intent to abuse, threaten or harass any person at the called number or numbers;

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

(4) Makes repeated telephone calls, during which conversation ensues, solely to harass any person at the called number or numbers;

(5) Knowingly permits any telephone under his/her control to be used for any purpose prohibited by this Section;



- (6) In conspiracy or concerted action with other persons, makes repeated calls or simultaneous calls solely to harass any person at the called number or numbers.
- (c) **Harassment – Unlawful Use of Computerized Communication Systems**
- (1) With intent to harass, annoy or offend another person, sends a message to the person on an electronic mail or other computerized communication system and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (2) With intent to harass, annoy or offend another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message and in that message uses any obscene, lewd or profane language or suggests any lewd or lascivious act.
  - (3) With intent solely to harass another person, sends repeated messages to the person on an electronic mail or other computerized communication system.
  - (4) With intent solely to harass another person, sends repeated messages on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the messages.
  - (5) With intent to harass or annoy another person, sends a message to the person on an electronic mail or other computerized communication system while intentionally preventing or attempting to prevent the disclosure of his or her own identity.
  - (6) While intentionally preventing or attempting to prevent the disclosure of his or her identity and with intent to harass or annoy another person, sends a message on an electronic mail or other computerized communication system with the reasonable expectation that the person will receive the message.
  - (7) Knowingly permits or directs another person to send a message prohibited by this section from any computer terminal or other device that is used to send messages on an electronic mail or other computerized communication system and that is under his or her control.

**Sec. 11-2-14 Open Cisterns, Wells, Basements or Other Dangerous Excavations Prohibited.**

No person shall have or permit on any premises owned or occupied by him/her any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

**Sec. 11-2-15 Gambling, Lotteries, Fraudulent Devices and Practices Prohibited; Gambling Machines.**

- (a) All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village, except as provided herein and by state law.
- (b) Any law enforcement officer of the Village may seize anything devised solely for unlawful gambling or found in actual use for gambling within the Village and dispose thereof after a judicial determination that such device was used solely for gambling or found in actual use for gambling; however, possession and use of gambling-type machines is permitted, but any form of payout from such machines of anything of value is prohibited. Any person in violation of this Subsection shall, upon conviction thereof, be subject to a forfeiture of Ten Dollars (\$10.00) or Fifteen Dollars (\$15.00) if paid five (5) or more days after issuance of a citation.

**Sec. 11-2-16 Obstructing Emergency or Rescue Personnel.**

- (a) **Definitions.** For the purposes of this Section, the following definitions apply to the terms as used herein:
  - (1) **Ambulance.** An emergency vehicle, including any motor vehicle, boat or aircraft, whether privately or publicly owned, which is designated, constructed or equipped to transport patients.
  - (2) **Ambulance Service Provided.** A person engaged in the business of transporting sick, disabled or injured persons by ambulance to or from facilities or institutions providing health services.

- (3) **Ambulance Attendant.** A person who is responsible for the administration of emergency care procedures, proper handling and transporting of the sick, disabled or injured persons, including but not limited to, ambulance attendants and ambulance drivers.
- (4) **Person.** Any individual, firm, partnership, association, corporation, trust, foundation, company, any governmental agency other than the U.S. government, or any group of individuals, however named, concerned with the operation of an ambulance.
- (5) **Authorized Emergency Vehicle** means any of the following:
- a. Police vehicles, whether publicly or privately owned;
  - b. Conservation wardens' vehicles or foresters' trucks, whether publicly or privately owned;
  - c. Vehicles of a fire department or fire patrol;
  - d. Privately owned motor vehicles being used by deputy state fire marshals or by personnel of a full-time or part-time fire department or by members of a volunteer fire department while en route to a fire or on an emergency call pursuant to orders of their chief or other commanding officer;
  - e. Such emergency vehicles of municipal or county departments or public service corporations as are designated or authorized by the local authorities to be authorized emergency vehicles.
  - f. Such emergency vehicles of state departments as are designated or authorized by the heads of such departments to be authorized emergency vehicles;
  - g. Such ambulances, publicly owned, as are designated or authorized by local authorities to be authorized emergency vehicles;
  - h. Such ambulances which are privately owned and are operated by owners or their agents and which vehicles are authorized by the sheriff or others designated by the county board to be operated as emergency vehicles. The sheriff or others designated by the county board may make such authorization which shall be in writing and which shall be effective throughout the state until rescinded. The sheriff or others designated by the county board may designate any owner of ambulances usually kept in the county to operate such vehicles as authorized emergency vehicles. Such written authorization shall at all times be carried on each ambulance used for emergency purposes. The sheriff shall keep a file of such authorizations in his office for public inspection, and all other persons permitted to issue authorizations shall file a copy of all authorizations issued with the sheriff who shall keep them on file;
- (6) **Emergency Medical Personnel.** Any emergency medical personnel, ambulance attendant, peace officer or fire fighter, or other person operating or staffing an ambulance or an authorized emergency vehicle.
- (7) **Bonafide Emergency or Bonafide Request for Emergency Services.** Those circumstances wherein the caller reasonably believes that person(s) and or property may be in actual or potential danger of injury, and in the case of person(s), in danger of illness.
- (b) **Prohibitions.** It is the intent of the Village of Merrilan, in its adoption of this provision, to protect against the foregoing activities in a manner consistent with that provided by Sec. 941.37, Wis. Stats. The following acts are prohibited and perpetration thereof subjects the violator to penalty as provided by Section 1-1-6:
- (1) Knowingly obstructing any emergency medical personnel in the performance of duties relating to an emergency or rescue;
  - (2) Intentionally interfering with any medical personnel in the performance of duties relating to an emergency or rescue, when it is reasonable that the interference may endanger another's safety;
  - (3) Knowingly making any telephone call to any emergency medical personnel, police agency or fire department for any purpose other than to report a bona fide emergency or to make a bona fide request for emergency services.