

Chapter 212

JUVENILES

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[HISTORY: Adopted by the Village Board of the Village of Black Creek as Title 9, Ch. 6, of the 1987 Village Code. Amendments noted where applicable.]

§ 212-1. Curfew.

A. Curfew established.

- (1) It shall be unlawful for any person 15 years of age and under to be on foot, bicycle, or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the Village between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by his or her parent or guardian, or 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 parent, guardian, or other person having legal custody, is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor. [Amended 3-10-2003]
- (2) It shall be unlawful for any person 16 and 17 years of age to be on foot, bicycle, or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the Village between the hours of 11:00 p.m. and 6:00 a.m. unless accompanied by his or her parent or guardian, or 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 parent, guardian, or other person having legal custody, is found upon any such public place during the aforementioned hours shall be prima facie evidence that said child is there unlawfully and that no reasonable excuse exists therefor.
- (3) It shall be unlawful for any child between the age of six years and 18 years, who is required under § 118.15, Wis. Stats., to be in attendance at school, to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, public building,

playground or any other public place in the Village during the full period and hours, religious holidays excepted, that the public or private school in which the student should be enrolled is in session as defined under § 118.15, Wis. Stats., unless accompanied by his or her parent or guardian, or 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 prima facie evidence that the child is there unlawfully and that no reasonable excuse exists therefor. **[Added 2-9-2015]**

(a) Exceptions. This section shall not apply to a child:

[1] The child is enrolled in an approved graduation program or high school equivalency program and the student, his parent or guardian, the school board and a representative of the school equivalency program have entered into a written agreement that will lead to the student's graduation.

(b) 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 public streets.

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.

(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 public streets.

C. It shall be unlawful for any parent, guardian, or other person having the lawful care, custody and control of any person under 18 years of age to allow or permit such person to violate the provisions of Subsections A and 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 chapter 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 18 years of age to violate this section.

D. It shall be unlawful for any person firm or organization operating or in charge of any place of amusement, entertainment, refreshment or other place of business to permit

any minor under 18 years of age to loiter, loaf, or idle in such place during the hours prohibited by this section. Whenever the owner or person in charge or in control of any place of amusement, entertainment, refreshment or other place of business during the hours prohibited by this section shall find persons under 18 years of age loitering, loafing, or idling in such place of business, he shall immediately order such person to leave, and if such person refuses to leave said place of business, the operator shall immediately notify the Police Department and inform it of the violation.

- E. Every law enforcement officer is hereby authorized to detain any minor violating the provisions of above until such time as the parent, guardian or person having legal custody of the minor shall be immediately notified, and the person so notified shall, as soon as reasonably possible thereafter, report to the Police Department for the purpose of taking the custody of the minor and shall sign a release for him or her. If no response is received, the police shall take whatever action is deemed necessary in the best interest of the minor.
- F. The first time a minor is detained by a law enforcement officer of the Village, as provided in Subsection E, such minor and the parent, guardian, or person having legal custody of such minor shall be advised, personally, if known, or by registered mail, as to the provisions of this section and further advised that any violation of this section occurring thereafter by such minor or any other minor under the care of such parent, guardian or person having legal custody shall result in a penalty being imposed as hereinafter provided. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- G. Violations and penalties.
- (1) Any parent, guardian or person having legal custody of a child described in Subsections A through E who has been warned in the manner provided in Subsection F and who thereafter violates any of the provisions of this section shall be subject to a penalty as provided in § 1-4, General penalty, 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 chapter 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 Chapter 48, Wis. Stats.
 - (2) Any minor person under 18 years of age who shall violate this section shall, upon conviction thereof, be punishable as provided in § 1-4, General penalty, of Chapter 1, General Provisions. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

§ 212-2. Possession of controlled substances.

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

§ 212-3. Petty theft by juveniles.

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.

§ 212-4. 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.

§ 212-5. Village jurisdiction over persons 16 and 17 years of age.

- 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 ordinance applicable to persons 14 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 of Ordinances against persons 14 through 17 years of age may be brought on behalf of the Village and may be prosecuted utilizing the same procedures, in such cases, as are applicable to adults charged with 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 chapter.
- D. Additional prohibited acts. In addition to any other provision of the Village Code of Ordinances, no person age 14 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 Chapter 125, Wis. Stats.
- E. Penalty for violations of Subsection D. Any person 14 through 17 years of age who shall violate the provisions of Subsection D shall be subject to the same penalties as are provided in § 1-4, General penalty, of this Code, exclusive of the provisions therein relative to commitment in the county jail.

§ 212-6. Purchase and possession of cigarettes and tobacco products.

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

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

LAW ENFORCEMENT OFFICER — Any person employed by the state or any other 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 flour; cavendish; pulp and

twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cutting and sweepings of tobacco and other kind and form of tobacco prepared in such manner as to be suitable for chewing and smoking in a pipe or otherwise, or both for chewing and smoking, but "tobacco products" does not include cigarettes, as defined above.

- B. 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 products from any retail or wholesale outlet or vending machine.
 - (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. 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 licenses under § 134.65(1), Wis. Stats.
- D. A law enforcement officer shall seize any cigarette or tobacco products involved in any violation of Subsection B committed in his or her presence.
- E. Any person who violates the provision of this chapter shall be subject to a penalty as provided in § 1-4, General penalty, of the Code of the Village of Black Creek.

§ 212-7. Violations and penalties.

- A. Citation process. For violations of §§ 212-2 through 212-6, juveniles may be cited by the citation process on a form approved by the Village Attorney and shall contain on the reverse side the penalties that the juvenile may receive simultaneously with issuing the citation to the juvenile. A copy will be mailed to the parent or legal guardian. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Penalties. Violations of §§ 212-2 through 212-6 by a person under the age of 18 years 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.

§ 212-8. Parental responsibility. [Added 11-13-1996]

- A. Purpose. The purpose of this section is to reduce the incidents of misconduct by juveniles by requiring proper supervision on the part of the custodial parents.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

CHILD — A person under the age of 18 years.

CUSTODIAL PARENT — A parent of a minor child who has custody of such child.

CUSTODY — Either physical custody of a child under a court order under §§ 767.225 and 767.41, Wis. Stats., or actual physical custody of the child. "Custody" does not mean legal custody, as defined under § 48.02(12), Wis. Stats., or an agency or a person other than a child's birth or adoptive parent. In determining which parent has custody of a child for purposes of this chapter, the court shall consider which parent has responsibility for caring for and supervising the child at the time that the child's ordinance violations occurred.

- C. Prohibited conduct. Every custodial parent has a duty to properly supervise his or her child. Any custodial parent whose child is convicted of a Black Creek Municipal Code violation twice in a six-month period or three or more times within a twelve-month period is guilty of failing to properly supervise said child. The six- and twelve-month periods shall be measured from the date of the initial violation.
- D. Penalties. The offense described under Subsection A shall be subject to a penalty as provided in § 1-4, General penalty, of Chapter 1, General Provisions. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)**]

§ 212-9. Truancy. [Added 2-14-2005]

- A. Definitions. For the purpose of this section, the following definitions shall be applicable:

ACCEPTABLE EXCUSE — The meaning as defined in §§ 118.15 and 118.16(4), Wis. Stats.

ACT OF COMMISSION OR OMISSION — Anything that contributes to the truancy of a juvenile, whether or not the juvenile is adjudged to be in need of protection or services, if the natural and probable consequence of that act would be to cause the child to be truant.

DROPOUT — The meaning given in § 118.153(1)(b), Wis. Stats.

HABITUAL TRUANT — A pupil who is absent from school without an acceptable excuse under § 118.15 and 118.16(4), Wis. Stats., for part of or all of five or more days in which school is held during a school semester.

TRUANCY — 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. Intermittent attendance carried on for the purpose of defeating the intent of § 118.15, Wis. Stats., shall also be considered truant.

TRUANT — A pupil who is absent from school without an acceptable excuse under § 118.15 and 118.16(4), Wis. Stats., for part or all of any day on which school is held during a school semester.

- B. Prohibition against habitual truant. Any person attending school in the Village between the ages of six and 18 years, subject to the exceptions found under § 118.15, Wis. Stats., is prohibited from becoming a habitual truant as the term is defined in this section; any law enforcement officer in this Village is authorized to issue a citation to

any such person who is determined to be a habitual truant under the terms of this section.

- C. Truancy. No person under 18 years of age shall be a truant from the school the person is supposed to be attending.
- D. Preconditions to issuance of citation. Prior to the issuance of any citation, the district school attendance officer shall provide evidence to the Police Department that appropriate school personnel in the school in which the juvenile is enrolled has within the school year during which the truancy occurred:
- (1) Met with or attempted to meet with the juvenile's parent or legal guardian to discuss the juvenile's truancy.
 - (2) Provided an opportunity for educational counseling to the juvenile and considered curriculum modifications.
 - (3) Evaluated the juvenile to determine whether learning problems are the cause of the truancy and, if so, taken steps to overcome the learning problems.
 - (4) Conducted an evaluation to determine whether social problems are the cause of the juvenile's truancy and, if so, taken appropriate action or made appropriate referrals.
- E. Form of citation. Any citation issued shall be returnable in court in the same manner as all other ordinance citations are returnable. The citation is to state on its face that this is a "must appear" citation, and no forfeiture amount is to be written on the face of the citation.
- F. Habitual truancy disposition. Upon a finding the juvenile is habitually truant pursuant to §§ 118.163(1)(a) and 938.342(1g), Wis. Stats., and is in violation of Subsection B of this section, the following dispositions are available to the court:
- (1) Suspension of operating privileges. Suspend the juvenile's operating privileges as defined in § 340.01(40), Wis. Stats., for not less than 30 days nor more than 365 days. The court may take possession of any suspended license. If the court takes possession of a license, it shall destroy the license. The court shall forward to the Department of Transportation a notice stating the reason for and duration of the suspension. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
 - (2) Counseling, service or work program. Order the juvenile to participate in counseling, community service or a supervised work program under §§ 938.342(1g)(b) and 938.34(5g), Wis. Stats. The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.
 - (3) In-house restraint. Order the juvenile to remain at home except for the hours in which the juvenile 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 juvenile to leave home if the juvenile is accompanied by a parent or legal guardian.

- (4) Educational programs. Order the juvenile to attend an educational program as set forth in § 938.34(7d), Wis. Stats.
- (5) Revocation of work permits. Order the Department of Workforce Development to revoke a work permit to the juvenile under §§ 103.70 and 103.72, Wis. Stats.
- (6) Teen court program. Order the juvenile to be placed in a teen court program if all of the following conditions apply:
 - (a) The chief judge of the judicial administrative district has approved a teen court program established in juvenile's county of residence and the judge determines that participation in the court program will likely benefit the person and the community;
 - (b) The person admits or pleads no contest to the allegations that the person was truant in open court with the person's parent, legal guardian or legal custodian present;
 - (c) The person has not successfully completed participation in a teen court program during the two years before the date of the alleged violation.
- (7) School attendance order. Order the person to attend school.
- (8) Forfeiture. Impose a forfeiture as provided in § 1-4, General penalty, of Chapter 1, General Provisions, subject to § 938.37, Wis. Stats. All or part of the forfeiture, plus costs, may be assessed against the person, the parent or guardian of the person, or both. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (9) Other conditions. Order the person to comply with any other reasonable conditions that are consistent with this subsection, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other juveniles or adults.
- (10) Supervision. Place the person under formal or informal supervision, as described in § 938.34(2), Wis. Stats., for up to one year.

G. Required school attendance; truancy dispositions.

- (1) Violations. Any person having under his/her control a juvenile who is between the ages of six and 18, subject to the exceptions found in § 118.15, Wis. Stats., shall cause the juvenile to attend school regularly during the full period and hours that the public or private school in which the juvenile shall be enrolled is in session until the end of the school term, quarter, or semester of the school year in which the juvenile becomes 18 years of age. If the court finds a person under 18 years of age violated this subsection or Subsection C above, the court shall enter an order making one or more of the following dispositions: **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
 - (a) Order the person to attend school.
 - (b) Impose a forfeiture as provided in § 1-4, General penalty, of Chapter 1, General Provisions, subject to § 938.37, Wis. Stats., for all violations

committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- (2) Exceptions.
 - (a) A person will not be found in violation of this subsection if that person can prove that he/she is unable to comply with the provisions of this section because of the disobedience of the juvenile. The juvenile shall be referred to the court assigned to exercise jurisdiction under Ch. 938, Wis. Stats.
 - (b) A person will not be found in violation of this subsection if he/she has a juvenile under his/her control and the child has been sanctioned under § 49.26(1)(h), Wis. Stats.
- (3) Proof required for exacting a penalty. Before a person may be found guilty of violating this section, the school attendance officer must present evidence to the court that the activities under § 118.16(5), Wis. Stats., have been completed by the school system. If that evidence has been presented to the court and if the court finds a person guilty of violating this section, a forfeiture may be assessed as hereinafter provided.

H. Contributing to truancy.

- (1) Except as provided in Subsection H(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 H(4), of a juvenile shall be subject to a forfeiture pursuant to the State of Wisconsin Bond Schedule, as used by the Municipal Court of the Village of Black Creek.
- (2) Subsection H(1) above does not apply to a person who has under his or her control a juvenile 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 juvenile 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 juvenile to be 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 legal guardian of the absent pupil has not been notified of the legal cause of such absence by the parent or guardian of the absent pupil and also means intermittent attendance carried on for the purpose of defeating the intent of § 118.15, Wis. Stats. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

I. Parent or legal guardian liability for truancy.

- (1) Unless the juvenile is excepted or excused under § 118.15, Wis. Stats., or has graduated from high school, any person having under control a juvenile who is between the ages of six and 18 years shall cause the juvenile to attend school regularly during the full period of hours, religious holidays excepted, that the

public or private school in which the juvenile should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the juvenile becomes 18 years of age.

- (2) Violations and penalties.
 - (a) A person found to have violated Subsection I(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 the State of Wisconsin Bond Schedule, as used by the Municipal Court of the Village of Black Creek.
 - (b) Subsection I(2)(a) above does not apply to a person who has under his or her control a juvenile who has been sanctioned under § 49.26(1)(h), Wis. Stats., nor does it apply to a person who has under his control a juvenile 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 I(1) because of disobedience of the juvenile.